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THE RIGHT OF PEOPLES TO SELF-DETERMINATION AND ITS APPLICATION TO
PEOPLES UNDER COLONIAL OR ALIEN DOMINATION OR FOREIGN OCCUPATION

Report on the question of the use of mercenaries as a means
of violating human rights and impeding the exercise of the
right of peoples to self-determination, submitted by
Mr. Enrique Bernales Ballesteros (Peru), Special Rapporteur,
pursuant to Commission resolution 1998/6

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Introduction

1. At its fifty-fourth session, the Commission on Human Rights adopted resolution 1998/6 of 27 March 1998, in which, *inter alia*, it reaffirmed that the recruitment, use, financing and training of mercenaries were causes for grave concern to all States and violated the purposes and principles of the Charter of the United Nations. The Commission called upon all States that had not yet done so to consider taking the necessary action to ratify the International Convention against the Recruitment, Use, Financing and Training of Mercenaries and urged them to cooperate fully with the Special Rapporteur in the fulfilment of his mandate.

2. Taking note of the report of the Special Rapporteur (E/CN.4/1998/31 and Add.1), the Commission also urged all States to take the necessary steps and to exercise the utmost vigilance against the menace posed by the activities of mercenaries and to take necessary legislative measures to ensure that their territories and other territories under their control, as well as their nationals, were not used for the recruitment, assembly, financing, training and transit of mercenaries for the planning of activities designed to destabilize or overthrow the Government of any State or threaten the territorial integrity and political unity of sovereign States or to promote secession. The Commission welcomed the adoption by some States of national legislation that restricted the use of mercenaries and the cooperation of those countries that had issued invitations to the Special Rapporteur to visit their countries. It also requested the Office of the United Nations High Commissioner for Human Rights, as a matter of priority, to publicize the adverse effects of mercenary activities on the right of peoples to self-determination and, when requested and where necessary, to provide advisory services to States that were affected by the activities of mercenaries.

3. The Commission on Human Rights also decided to extend the mandate of the Special Rapporteur for three years and requested him to submit a report, with specific recommendations, to the Commission at its fifty-fifth session.

4. On 5 November 1998, the Third Committee of the General Assembly adopted a draft resolution on the question of the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination.

5. Pursuant to the provisions of resolution 1998/6, the Special Rapporteur has the honour to submit this report for the consideration of the Commission on Human Rights.

I. ACTIVITIES OF THE SPECIAL RAPPORTEUR

A. Implementation of the programme of activities

6. The Special Rapporteur submitted his reports (E/CN.4/1998/31 and Add.1) to the Commission on Human Rights on 18 March 1998. While in Geneva, the Special Rapporteur had consultations with representatives of various States and held meetings with members of non-governmental organizations. He also

held meetings with officials of the Office of the United Nations High Commissioner for Human Rights, notably the Activities and Programmes Branch.

7. The Special Rapporteur returned to Geneva on three occasions, from 26 to 29 May, 17 to 21 August and 16 to 20 November 1998, to hold various consultations, to draft his report to the General Assembly and the present report and to participate in the fifth meeting of special rapporteurs and special representatives, independent experts and chairmen of working groups of the Commission on Human Rights. He also went to United Nations Headquarters in New York to submit his report to the Third Committee of the General Assembly. He made his presentation on 23 October 1998.

8. During the reporting period, the Special Rapporteur received invitations to undertake official missions to the United Kingdom of Great Britain and Northern Ireland and the Republic of Cuba. He would like to express his appreciation for the invitations and hopes to carry out the missions during 1999.

B. Correspondence

9. In pursuance of General Assembly resolution 52/112 of 12 December 1997 and Commission on Human Rights resolution 1998/6 of 27 March 1998, the Special Rapporteur sent a communication to all Member States of the United Nations on 6 July 1998 requesting them to send information on the existence of mercenary activities, the possible participation by nationals of their country in such activities and domestic legislation currently in force outlawing such activities. He also requested suggestions to help enhance the international approach to the topic, arrive at a better definition of mercenary and regulate the private companies which offer security services and assistance and military advice and which sometimes recruit mercenaries.

10. The Special Rapporteur received valuable assistance from the Governments of Ecuador, the Eastern Republic of Uruguay, the Federal Republic of Yugoslavia (Serbia and Montenegro), Honduras, Ireland, Portugal, Sweden and the Syrian Arab Republic, which provided useful information and comments (see the report of the Special Rapporteur to the fifty-third session of the General Assembly, paras. 8-16).

11. After having drafted his report to the General Assembly, the Special Rapporteur received the following communications. By note verbale dated 18 August 1998, the Permanent Mission of Finland to the United Nations Office at Geneva replied as follows:

"The Government of Finland is committed to the fight against the use of mercenaries. In this regard, the Government of Finland is currently considering whether it is possible and desirable in the light of the present Finnish legislation to accede to the International Convention against the Recruitment, Use, Financing and Training of Mercenaries, adopted by the General Assembly on 4 December 1989."

12. Mr. Miroslav Milosevic, then Chargé d'Affaires ad interim of the Permanent Mission of the Federal Republic of Yugoslavia (Serbia and Montenegro) to the United Nations Office at Geneva, provided additional

information on mercenary activities and terrorist actions in Kosovo and Metohija in a letter dated 27 August 1998. The letter reads verbatim as follows:

"With the terrorist activities in Kosovo and Metohija further escalating, data have been officially registered on the active participation of foreign mercenaries in the terrorist activities of the so-called 'Kosovo Liberation Army' (KLA). Evidence is available on the support and assistance that the Republic of Albania has been providing for terrorists active within the so-called 'Liberation Army'. Thus, for example, northern Albania has been transformed into a number of recruitment centres for terrorists' training and into depots for the so-called KLA. The Yugoslav authorities possess documentation on the nationality, training expertise, tasks, experience and payment of foreign mercenaries who have been taken into Serbia to carry out activities in its territory (Kosovo and Metohija). In June and July of 1998, criminal charges were filed against seven Albanian nationals (mostly from the municipality of Tropoja, taken prisoners in our country on the occasion of smuggling large quantities of arms for committing terrorist activities in Kosovo and Metohija).

"Apart from Albanian nationals, most other terrorists are the so-called 'mujaheddins', nationals from some Arab countries - Afghanistan, Sudan, Russian Federation (Chechnya) and others. Many of them have participated in the war in Bosnia and Herzegovina on the Muslim side. These are highly professional and well-trained fanatics who take a direct part in capturing and cleansing the region, in kidnapping citizens and members of police, in committing horrendous tortures and liquidations. They have served as special training instructors for the so-called KLA.

"Apart from Albania, the Republic of Macedonia has also been used as a canal for the illegal entry of mercenaries into Yugoslav territory.

"In Germany, Switzerland, Austria, the Netherlands, Bosnia and Herzegovina, Croatia and some other countries, highly trained professionals with substantial experience acquired in war operations and sabotage-terrorist activities in various parts of the world have been recruited. Mercenary recruitment and training centres and weapons pooling centres in Bosnia and Herzegovina have been in the vicinity of the cities of Zenica, Tuzla and Travnik. The Yugoslav authorities possess also data on the training of members of separatist-terrorist gangs in Kosovo and Metohija in the village of Mehurici, municipality of Travnik, Bosnia and Herzegovina.

"Members of Muslim military formations in the war in Bosnia and Herzegovina have organized the transfer of Muslim mercenaries from Bosnia and Herzegovina into the territory of Serbia (Kosovo and Metohija)."

13. By letters dated 16, 17 and 29 September 1998, Mr. Branko Brankovic, Chargé d'affaires ad interim of the Federal Republic of Yugoslavia (Serbia and Montenegro) to the United Nations Office at Geneva, enlarged upon the

information provided by his Government regarding what it considered to be terrorist activities carried out by foreign mercenaries and Islamic fundamentalists in the Autonomous Province of Kosovo and Metohija and submitted two documents entitled "Facts regarding the situation in Kosovo and Metohija" and "Conclusions of the National Assembly of the Republic of Serbia on the situation in Kosovo and Metohija". The Special Rapporteur regrets that he is unable to reproduce these communications in their entirety owing to the strict maximum number of pages allowed for Commission on Human Rights reports. Nevertheless, he considers it important to point out the following paragraphs contained in the letter dated 16 September 1998:

"(...) The Islamic influence upon terrorist activities perpetrated by the so-called Kosovo Liberation Army (KLA) has been manifested in a number of ways, first of all through aid for purchasing armaments and military equipment provided by radical Islamic countries, but also through Mujahedin fighting within the KLA units. There is irrefutable evidence on the linkage between terrorism in Kosovo and Metohija and the Mujahedin in the Middle East, Africa and Asia, aimed at forced secession of Kosovo and Metohija from Serbia and the Federal Republic of Yugoslavia.

"(...) In 1998 the leaders of the so-called Kosovo Liberation Army (KLA), with the idea of providing professional, experienced commanders and perpetrators of terrorist acts, have directed their activities to recruiting mercenaries and volunteers from Islamic countries and from Bosnia and Herzegovina. At the beginning of 1998, in the region of Zenica and Kalesija (Bosnia and Herzegovina), posts of the so-called KLA were set up, charged with recruiting mercenaries and volunteers, mostly among the demobilized members of the Muslim army of Bosnia and Herzegovina, particularly ex-members of its special units. According to the information obtained, their monthly pay ranges from 3,000 to 5,000 deutsche mark. Mujahedin from Arab and other Muslim countries are in charge of the training.

"(...) Yugoslav authorities have obtained evidence whereby, from May to July 1998, in the region of Drenica in Kosovo and Metohija, a joint Mujahedin unit, 'Abu Bekir Sidik' was operating. This unit was first set up in mid-1997 in Bosnia and Herzegovina, under the instructions coming from Saudi Arabia and Turkey. Some DM 300,000, earmarked for arms purchasing and illegal transfer into Kosovo and Metohija have been provided by the 'World Office for Islamic Appeal'. The first contingent was illegally brought into the Federal Republic of Yugoslavia (Serbia and Montenegro) in July 1997, and the first Mujahedin unit was infiltrated in May 1998 to the village of Donji Prekaz. The unit, under the command of Ekrem Avija, consisted of 120 Mujahedin, divided into seven groups. A separated group consisted of Mujahedin from Saudi Arabia, the former Yugoslav Republic of Macedonia, Albania, Bosnia and Herzegovina and other countries, with an Egyptian national, Abu Ismail, heading it (he had been in charge of the former Mujahedin unit in the Bosnian war).

"(...) I should like to point to the increasing presence of the Islamic factor in Kosovo and Metohija, which indicates to broader strategic interests to exert influence upon Albania, and the whole of the Balkans."

14. By a letter dated 12 August 1998, Ms. Sima Eivazova, Permanent Representative of the Azerbaijani Republic to the United Nations Office at Geneva, submitted a list of persons she described as mercenaries who had fought on the side of Armenia in the armed conflict against Azerbaijan. The list includes the following: Aleksandr Yuryevich Karavaev, born in Kazan; Sergei Konstantinovich Turchenko, born in Pskov; Nikolai Semenovitch Chimpoev, resident of Tiraspol; Sergei Grigoryev, resident of Moscow; Stanislav Stefanovich Semenchuk; Nikolai Ivanovich Bukhnarev, resident of Moscow; Vladimir Vikentyevich Semenov, born in Kamyshin, Volgograd; Konstantin Immanuilovich Voevodsky, resident of St. Petersburg; Vladimir Maiorov; and Sergei Kuznetsov. The list includes the names of the following combatants killed in action in 1992: Nikolai Anatolyevich Shamkov; A.F. Voronin; S.M. Mukhaev; R.G. Chechnikov; S.M. Gladilin; U.S. Skrizhalik; and A.M. Kurzyukov. It also includes the names of the following nationals of the Russian Federation: Igor Evgenyevich Babanov; Aleksandr Viktorovich Shitko; Vladimir Zoltan; Sergei Ivanovich Kidalov; Akhmed Zhumagaliev; Daud Khamrasovich Lusenov; Bashir Akhmedovich Nalgiev; and Abukhar Akhmedovich Nalgiev.

15. The Permanent Representative of Azerbaijan also gave the Special Rapporteur a list containing the names of 13 persons considered to be mercenaries, captured while fighting on the side of the Armenian forces: Vladimir Nikolaevich Semion; Nikolai Vitalyevich Goncharov; Vladimir Aleksandrovich Polyakov; Aleksandr Yuryevich Korenko; Igor Chernenko; Sergei Veniaminovich Suchkov and Oleg Fedorovich Serdik. The list includes the names of the following persons, sentenced to death by the Military Division of the Supreme Court of Azerbaijan: Konstantin Vladimirovich Tukish; Yaroslav Leonidovich Evstigneev; Andrei Anatolyevich Filippov; Mikhail Stepanovich Lisovoi; and Vladislav Petrovich Kudinov. She also reported that Vasili Vladimirovich Lugovoi, who had been sentenced to 14 years' imprisonment, had been handed over to the authorities of the Russian Federation on 8 May 1996.

16. By note verbale dated 3 September 1998, the Permanent Mission of Mauritius to the United Nations Office at Geneva replied to the Special Rapporteur's request for information as follows:

- "(i) There is not the slightest evidence of the existence of any mercenary activities in Mauritius;
- "(ii) The Government of Mauritius has not enacted any domestic legislation nor is it a party to any international treaties outlawing mercenary activities; and
- "(iii) The Government of Mauritius is in favour of the International Convention against the Recruitment, Use, Financing and Training of Mercenaries. However, Mauritius has a well-organized police and a paramilitary force to ensure the security of the country."

17. In reply to a letter dated 8 July 1998, from Mr. Tony Lloyd, Minister with responsibility for human rights and United Nations affairs at the United Kingdom Ministry of Foreign Affairs, the Special Rapporteur sent the following letter on 20 August 1998:

"I have the honour to acknowledge and thank you for your letter of 8 July 1998, in which you accept my request to visit your country on an official mission for the purpose of continuing my current investigations into private companies providing security services and military assistance, pursuant to the mandate conferred by the Commission on Human Rights.

"I am particularly interested in meeting you and officials from the relevant governmental sectors and departments, specially Foreign Affairs, the Interior, Justice and Defence. I should be grateful if your Government would cooperate in drawing up a schedule of interviews with governmental authorities and officials, preferably in the morning, in order that I may have the afternoons for meetings with non-governmental organizations and academic research centres.

"As regards the dates of my visit, I would propose the week of 12 to 16 October 1998, arriving on 11 October and leaving on 17 October. I would be accompanied by Mr. Miguel de la Lama, who assists me in carrying out my mandate, and two interpreters. The organizational details will be worked out with your country's Permanent Mission to the United Nations Office at Geneva."

18. Mr. Roderic M.J. Lyne, CMG, Permanent Representative of the United Kingdom of Great Britain and Northern Ireland to the United Nations Office at Geneva, sent the following letter, dated 24 September 1998, to the Special Rapporteur:

"Thank you for your letter of 20 August to the Minister of State at the Foreign and Commonwealth Office, Mr. Tony Lloyd MP. I have been asked to reply on Mr. Lloyd's behalf.

"My Government looks forward to your visit, and will do all that it can to help to facilitate the meetings you have requested. We have explored the possibility of setting up these meetings during the period suggested by you in mid-October. Unfortunately, our enquiries have established that many of the key interlocutors in the government departments you have specified will not be easily available during the week in question, because they are already committed to conflicting engagements. We think it important that your visit should take place at a time when the right people are available, and I fear that the notice is simply too short for us to organise the sort of programme you would like by 12 October.

"We would therefore like to propose that your visit should take place at a slightly later date. I understand that my authorities in London will soon be letting me have some dates we could put forward with confidence in our ability fully to meet your requests. I shall write to you again as soon as I have a new timing to propose. In the meantime, if there is any particular period later in the year in which, for your part, you would not be free to visit the United Kingdom, perhaps you could be so good as to let me know."

19. The Special Rapporteur and the United Kingdom authorities and Permanent Mission are discussing the possibility of a visit in early 1999. The Special Rapporteur is particularly anxious for a visit to take place then and is grateful for the cooperation of the United Kingdom Government and the Permanent Mission in preparations for the visit and, in general, the fulfilment of his mandate.

20. During 1998 the Special Rapporteur continued to receive the cooperation of various non-governmental organization (NGOs), including Amnesty International, Human Rights Watch and International Alert. He also received communications from, *inter alia*, the Bahrain Human Rights Organization, in Copenhagen; the Humanitarian Law Centre, in Belgrade; the Muttahida Quami Movement (MQM), in Edgware, United Kingdom; and the Organization for Defending Victims of Violence, in Tehran. He was also assisted by members of various institutions, such as Mr. David Shearer, of the International Institute of Strategic Studies. The Special Rapporteur once again underlines the importance of being able to rely on help from NGOs in carrying out his mandate, particularly at a time when the activity and growth of private companies offering security services and military assistance and making use of mercenaries, are a threat to traditional human rights protection systems around the world.

C. Correspondence regarding mercenary activities against Cuba

21. In his last report to the Commission on Human Rights (E/CN.4/1998/31, para. 20), the Special Rapporteur reproduced a letter from the Ministry of Foreign Affairs of Cuba dated 1 October 1997 concerning attacks on hotel and tourist facilities in Havana, particularly those carried out by the Salvadoran citizen Raúl Ernesto Cruz León, which resulted in the death of an Italian tourist. He also reproduced a letter replying to his request for information on this matter from the Permanent Representative of the United States of America to the United Nations Office at Geneva, dated 13 January 1998 (E/CN.4/1998/31/Add.1). In his recent report to the General Assembly, the Special Rapporteur reproduced a letter dated 3 August 1998, in which the Permanent Representative of Cuba to the United Nations Office at Geneva drew attention to an interview given to the North American newspaper The New York Times by Luis Posada Carriles on 12 and 13 June 1998.

22. In a further communication dated 15 October 1998, the Permanent Representative of Cuba to the United Nations Office at Geneva, Mr. Carlos Amat Forés, made the following statement:

"(...) I would like to take this opportunity to inform the Special Rapporteur of the latest developments and facts relating to the use of mercenaries that have recently affected Cuba.

"As we have repeatedly said in various international forums, the use of mercenaries and their recruitment, financing and training are offences that deeply concern the Government of Cuba, since they violate the fundamental principles of international law, while mercenary activities constitute gross violations of fundamental human rights.

"On 4 March 1998, two Guatemalan citizens, Nader Kamal Musalam Bacarat and María Elena González Meza, were arrested in Havana for attempting to bring into the country the means to make explosive devices, such as detonators, plastic explosive, timers, interface circuits and batteries. Their mission was to explode these devices in public places. On 20 March, María Elena's husband, Mr. Jazid Iván Fernández Mendoza, was also arrested in Havana for helping to disguise the components and plan the actions.

"In the course of the investigation, they admitted that their motives for carrying out such terrorist actions were financial, since, on their return to Guatemala, the activities were to have been paid for by a Salvadoran citizen, Francisco Chávez Abarca, whom they identified as the person who had recruited and trained them and supplied the necessary components.

"We would like to take this opportunity to draw the Special Rapporteur's attention to Mr. Chávez Abarca, since it was he who organized the terrorist acts perpetrated by Raúl Ernesto Cruz León in Havana in 1997.

"Moreover, on 10 June 1998, another Salvadoran citizen, Otto René Rodríguez Llerena, was arrested in Cuba while attempting to bring in components for two explosive devices for the purposes of terrorist actions.

"Rodríguez Llerena admitted that he had caused the explosion that took place on 4 July 1997 in the lobby of the Cohiba Hotel in Havana and that he had been recruited, trained and supplied by Luis Posada Carriles, a terrorist of Cuban origin, who had paid him around US\$ 1,000 for that action. He stated that, on this occasion, too, his motive was financial and that it was once again Posada Carriles who had supplied the components and financed the trip.

"Given that these operations are linked with Miami-based extremist organizations, as Posada Carriles himself admitted in his New York Times interview, the Government of Cuba once again urges the Special Rapporteur to use his good offices to request the United States authorities to take firm and decisive action to put an end to these objectionable activities.

"The Special Rapporteur should also continue the work he has been doing in his latest reports, of analysing the causes and consequences of mercenary practices and their increasingly close links with terrorist activities."

23. On the same date, the Permanent Representative of Cuba to the United Nations Office at Geneva, Mr. Carlos Amat Forés, sent the Special Rapporteur an official invitation from his Government to visit Cuba. He noted that "this visit is a part of my Government's traditional cooperation with the Office of the Special Rapporteur which you direct as part of the global mechanisms for the protection of human rights throughout the world". The Special Rapporteur appreciates the cooperation offered by the Government of Cuba in the discharge of his mandate and hopes to visit Cuba on an official mission during 1999.

II. MERCENARY ACTIVITIES IN SIERRA LEONE

24. In previous reports, the Special Rapporteur has discussed the armed conflict in Sierra Leone and the presence there of private companies offering security services and military assistance and advice, and of mercenaries recruited by such companies. As is well known, Sierra Leone has for seven years been in the grip of an armed conflict which, having begun as a spillover from the civil war in Liberia, has made the country one of the poorest in Africa and the world and caused the displacement of 420,000 of its nationals. The security firm Executive Outcomes, which is registered in South Africa and made up of former members of the thirty-second battalion of the South African army, was contracted by Valentin Strasser's Government, but left Sierra Leone at the time the peace accord was signed in November 1996, after having provided military assistance services for several months.

25. In a coup d'état on 25 May 1997, led by Commander Johnny Paul Koroma, the constitutional President Alhaji Ahmed Tejan Kabbah was overthrown and a revolutionary council was formed. Lower ranks of the armed forces took part in the coup. A number of foreign companies involved in diamond, titanium, gold and bauxite mining left the country or suspended their operations. The Governments of the region not only condemned the coup, but also isolated the new de facto Government and demanded the return of the deposed President. The de facto Government in its turn called on Nigeria to return Foday Sankoh, the leader of the Revolutionary United Front (RUF).

26. The Special Rapporteur has learned that, while in exile in Guinea, the deposed President signed a contract with Sandline International, a company registered in the Bahamas and with offices in Chelsea, London, to provide him with military support, advice and assistance in regaining power. This company is already known to the Special Rapporteur and has been mentioned in previous reports in connection with its unsuccessful intervention in Papua New Guinea (see, for example, E/CN.4/1998/31, paras. 93-99). In 1997, Sandline International signed a contract for US\$ 36 million with the Government of Papua New Guinea, whose Prime Minister was then Sir Julius Chan, to carry out offensive military operations in Bougainville, engage the rebels of the Bougainville Revolutionary Army and provide mercenaries, sophisticated military equipment and military assistance. Shortly afterwards, Sir Julius Chan's Government was legally ousted and the mercenaries sent in by the company were expelled.

27. According to the information received by the Special Rapporteur, a number of financial and mining companies with debts and interests of various kinds in Sierra Leone gave their support and even partial financial backing to the contract with Sandline International. After signing the contract, the company prepared and dispatched a document giving its view of the operations to be carried out and various strategic and tactical plans. Helicopters and military equipment were subsequently exported to Sierra Leone, allegedly via Bulgaria, Nigeria and Liberia, in breach of the embargo imposed under Security Council resolution 1132 (1997); military experts were also sent and are still providing tactical and operational advice on the ground. The first arms sent by Sandline arrived on 22 February 1998.

28. On 10 March 1998, after bloody fighting in which the forces of the Economic Community of West African States (ECOMOG) took part, the coalition Government formed by the Armed Forces Revolutionary Council (AFRC) and the Revolutionary United Front (RUF) was overthrown, and President Tejan Kabbah was able to return to Freetown. The war continued, however. Soldiers loyal to the ousted military junta have committed atrocities against the civilian population in their flight to the east of the country. The decapitated, dismembered or burnt corpses of more than 100 people were seen in the areas of Bo, Lunsar, Kenema and Makeni, as witness to the vengefulness of those who had been dislodged from power; 1,500 supporters of the junta were arrested and 59 were accused of treason. Of these, 24 were sentenced to death at a trial without right of appeal and were executed on 19 October 1998.

29. While ECOMOG forces devote themselves to keeping order in Freetown, Sandline International employees advise the Government as it plans the creation of a new army with no links to those involved in the coup d'état. Efforts are also being made to organize the population in civil defence or self-defence forces. Hinga Norman, a chief of the Mende Tribe, and educated in the United Kingdom, has set up a 20,000-strong paramilitary force called Kamajor with the aim of stamping out the rebellion. This paramilitary force is also reported to be committing gross violations of human rights with the acquiescence of the Government and after training and advice from Sandline International mercenaries. The Special Rapporteur has been informed of appalling acts of cruelty committed by mercenaries on captured rebels and on civilians suspected of collaborating with the insurgents. During the week of 30 November 1998, 70 rebels were killed in battle in Gberay, a rebel base 100 kilometres north of the capital. Many of the bodies were mutilated and incinerated.

30. As the Special Rapporteur has noted in previous reports, the presence in Sierra Leone of the company Executive Outcomes, which had fought the rebels and made possible the November 1996 peace agreement, did not help to avert the coup d'état of 25 May 1997 or the formation of an alliance of former enemies from RUF and AFRC in a coalition Government. Hiring private companies providing security and military assistance and advice is no substitute for maintaining a collective regional security system and genuinely professional national armed forces and security forces loyal to the democratic legal order. It is a false solution. When companies of this type leave the country, they also leave behind the structural problems they found when they arrived - unsolved, if not actually worse.

31. The recruitment, financing and use of mercenaries by such companies are unacceptable under any circumstances, even when the aim is claimed to be the restoration of a constitutional regime overthrown by a coup d'état. This means, however, that the international community must promote the development of effective regional and global collective security mechanisms and give its backing to the work of the United Nations, which has recently opened an office in Sierra Leone (the United Nations Observer Mission in Sierra Leone - UNOMSIL) to work for peace and human rights in that country.

III. PERSISTENCE AND EVOLUTION OF MERCENARY ACTIVITIES

32. One question needs to be asked: why is it that mercenary activities persist when they have so often been condemned by various United Nations bodies, when no State will admit publicly that it uses mercenaries and when anyone working as a mercenary knows that he will be an outcast even among his closest acquaintances? To say that this is due to the attractively high pay is only half the story. Mercenarism is only in part individual behaviour for which the mercenary himself is solely responsible.

33. The years that the Special Rapporteur has spent looking into the phenomenon of mercenarism and observing how it has metamorphosed outwardly, yet without changing in essence, have led him towards an alternative hypothesis, namely, that it occurs in inverse proportion to peace, political stability, respect for the legal and democratic order, the ability to exploit natural resources in a rational manner, a well-integrated population and a fair distribution of development which prevents extreme poverty. Where all these factors coincide, the risk of mercenary activity is minimal. Conversely, when these factors are not present or occur in haphazard, insufficient, intermittent or contradictory ways, the likelihood of mercenary intervention increases, either because violence, intolerance and the lust for power create conditions that facilitate instrumental links of some kind with mercenaries; or because a third Power, which does not want to be directly involved or to be accused of interventionism, resorts to such action for its own advantage.

34. On the basis of this hypothesis, the Special Rapporteur monitored a number of situations in which mercenaries were involved and found that, while mercenaries might be recruited, trained and financed from within solid, stable countries, they are in fact used chiefly in countries affected by political violence, internal armed conflict, insurrection or insurgency and lacking the necessary financial or technical capacity to prospect for and exploit natural resources on an industrial scale. Their presence and behaviour are not those of heroic saviours, but those of criminals, experienced in the use of arms, whose activities generally have an impact on the self-determination of the nation in which they interfere.

A. The present situation

35. The Special Rapporteur has established that, unlike mercenaries such as Colonel Bob Denard or Mike Hoare in Katanga during the 1960s, today's mercenaries do not work independently. They are more likely to be recruited by private companies offering security services and military advice and assistance, in order to take part or even fight in internal or international armed conflicts. This is because the parties in a conflict have specific military needs that require the participation and hiring of professional soldiers. Mercenaries are usually, or have been, soldiers, combatants or, more frequently, members of special units and have experience with sophisticated weapons; this applies particularly to those recruited to take part in combat and to train those who are to make up battalions, columns or commando units. Armed conflicts, terrorism, arms trafficking, covert operations by third Powers, Governments' inability to establish or guarantee

security in their own countries and violence connected with positions of extreme intolerance all encourage the demand for mercenaries on the global market.

36. Within the historical structure of the nation State, which is still the basis of international society, it is inadmissible for any State legally to authorize mercenary activities, regardless of the form they take or the objectives they serve. Even where legislation is lacking or deficient mercenarism is an international crime. Mercenary activity arises in the context of situations that violate the right of peoples to self-determination and the sovereignty of States. In practice, mercenaries commit atrocities and impede the exercise of human rights. The mere fact that it is a Government that recruits mercenaries, or contracts companies that recruit mercenaries, in its own defence or to provide reinforcements in armed conflicts does not make such actions any less illegal or illegitimate. Governments are authorized to operate solely under the Constitution and the international treaties to which they are parties. Under no circumstance may they use the power conferred on them to carry out acts that impede the self-determination of peoples, to jeopardize the independence and sovereignty of the State itself or to condone actions that may do severe harm to their citizens' lives and security.

37. The fact that military units made up of mercenaries are supposed to be more efficient, that the use of mercenaries helps to preserve the life of young conscripts or that it is cheaper to recruit mercenaries than to maintain a regular army are weak arguments, and legally and ethically questionable. If such arguments were used as the grounds for praxis, States would reach a stage when they would have to abolish their military forces or cut them back drastically and invite mercenary organizations in to take charge of not only border control, but possibly also the maintenance of law and order.

38. Rather than yield to dangerous arguments such as those that aim to "rehabilitate" the mercenary at a time of globalization, the undermining of the sovereignty of the nation State and the privatization of conflicts, war and the maintenance of law and order, it must not be forgotten that mercenaries, by definition, act without regard for ideals or legal or moral commitments. They are mercenaries not because order must be restored, armed conflicts must cease or peace must be built, but because they have been paid significant amounts by third parties to involve themselves militarily in conflicts that do not concern them. Their involvement is thus directly motivated by financial gain. The same is true of modern business groups offering security services on an industrial scale around the world and recruiting, financing and using mercenaries for some of their activities.

39. For mercenary activity to occur, there must be third parties with an interest in resorting to the employment of mercenaries in order to carry out activities that are to their advantage, even though such activities may violate the legislation in force and the international obligation not to interfere in the internal affairs of another State. Clearly, for such a relationship to exist, there must also be recruiting organizations and companies and organizations to act as intermediaries between those who supply and those who demand the service.

40. The Special Rapporteur is of the opinion that investigations into mercenary activities must be objective, encompass all those involved and seek to determine the nature of the act, without accepting any formal legal limitations that may be invoked precisely to conceal the mercenary component. The investigators must also establish the actual identity and nationality of the mercenary, go through the files, rule out altruistic voluntary enlistment, compile information on recruitment and training centres, follow the trail of covert operations, obtain reliable data on aspects relating to the payment and other benefits agreed upon and detect the simultaneous use of other nationalities and passports, etc. In cases where nationality is granted to foreigners taking part in an armed conflict, the investigation must establish the length of time, circumstances and legal grounds for the good faith and legitimacy of the new nationality.

41. The issue of mercenary activity has so many ramifications nowadays that attention must focus on the matter of nationality, which hitherto has been considered as a means of differentiation and a determining factor in the definition of a mercenary. Indeed, a foreign Power can avail itself of nationals of the country it intends to attack in order to do it serious harm. In such a case, the rules of international law as they now stand would not allow the act to be defined as mercenary, even if there was evidence of, for example, recruitment and payment. Even though existing international law may be excessively rigid or full of gaps or does not lend itself to the formal definition of a criminal as a mercenary, it would be wrong to invoke the existing rules either in too restrictive a manner or in such a way as to justify mercenary acts and behaviour.

42. Without obviating the need to clarify, refine, update and expand the rules of customary international and treaty law to combat mercenary activity, it should be established as a principle that, in essence, the aim of such rules is to condemn a mercenary act in the broad sense of the buying and selling of military services that are not subject to the humanitarian standards that apply to armed conflicts and that are likely to lead to war crimes and human rights violations. It should not be forgotten that, in addition, current international law condemns interference by one State in the internal affairs of another State and the impeding of the self-determination of peoples and that it is, if anything, an aggravating factor if the State interfering employs nationals of the other country for that purpose. Such nationals would not, strictly speaking, be considered mercenaries, but, on the part of those recruiting them, the aim of using them as mercenaries is objectively undeniable, as is the willingness of such nationals to accept a relationship that turns them into mercenaries.

43. The definition does not change if a national group organized abroad for purposes of opposing their country's Government politically and militarily hires and pays mercenaries, based on their military experience or experience in the use of arms and explosives, in order to carry out attacks against the country and its Government. In any case, a distinction must be made between political opposition to a regime, which is the right of any member of a national community, and the employment of methods that are inherently unlawful, such as the use of mercenaries.

44. The Special Rapporteur repeats his view that unlawful activities in which a person's nationality is used by a Power that recruits, prepares and pays that person to mask the mercenary nature of the act should be analysed from the standpoint of a broad, up-to-date interpretation of the international provisions on the subject and the general principles of international law. Since the General Assembly, the Security Council, the Economic and Social Council and the Commission on Human Rights have repeatedly condemned mercenary activities and since, in addition, Member States have condemned such activities and some countries have national laws making the use of mercenaries a crime, where there are no laws or only inadequate laws, a case can be made for the existence of customary international law that condemns and prohibits mercenary activities based on the nature of the acts and not on the fact of having a different nationality. The criterion of being foreign should thus be analysed from the perspective of and in line with higher provisions and the general principles of international law.

B. Current international legislation and its limitations

45. The Special Rapporteur deems it necessary to remind the Commission on Human Rights of the need for the international community to examine, study and reflect on the apparent connection between the persistence of and increase in mercenary activities and the obvious gaps in the international legislation currently in force. Furthermore, the increasing tendency of mercenaries to hide behind modern private companies providing security, advice and military assistance may be due to the fact that international legislation has not taken account of new forms of mercenary activities.

46. In the Special Rapporteur's experience the topic calls for a review as outlined below. Issues on which the relevant United Nations bodies must take a stand include: what is the status of a foreigner who enters a country and acquires its nationality in order to conceal the fact that he is a mercenary in the service of a third State or of another party in an armed conflict? Of a non-resident national who is paid by a third State to carry out criminal activities against his own country of origin? And what about a dual national, one of whose nationalities is that of the State against which he is acting, while he is being paid by the State of his other nationality or by a third State? What are the limits of jus sanguinis in an armed conflict when it is invoked by persons who are paid and sent to fight in a domestic or international armed conflict taking place in the country of their forebears? These questions are not simply casuistic. The Special Rapporteur's earlier reports contain specific references to situations such as those described and, even though the evidence pointed to mercenary activities, legal inadequacies and gaps made it difficult accurately to classify an act and the person who committed it.

47. The Commission on Human Rights has already drawn attention to the need to review and update the proposals intended to make the laws proscribing mercenary activities more effective. Furthermore, earlier resolutions of the General Assembly recommended that expert meetings should be convened to study more closely the ambiguities or inadequacies of the international legislation in force and to propose recommendations for a clearer legal definition that would make for more efficient prevention and punishment of mercenary activities. These meetings have not yet been held. The Special Rapporteur

recommends to the Commission on Human Rights that it should request the Office of the United Nations High Commissioner for Human Rights to convene, organize and plan such meetings in the context of its activities for the 1999-2000 biennium. The Commission must have clear, unambiguous criteria that would enable it to propose to the Economic and Social Council, and, through it, to submit to the General Assembly, new clear and effective legal proposals for preventing and punishing mercenary activities, particularly in their new forms. Statements formally condemning mercenary activities have not served to prevent an increase in calls on the services of mercenaries and recruiting companies of doubtful lawfulness and legitimacy. What is now needed is an improvement in the normative system to enable it to cope with the development of new criminal methods.

48. An analysis of the factors behind the recurrence and expansion of the phenomenon must consider the problems caused by gaps in existing international legislation and by flexibility with regard to classification as a mercenary. The persistence of mercenary activities, the range and variety of the forms on which they are carried out and the hidden networks of complicity behind these activities suggest that States, particularly the smallest and weakest ones, the least developed, those forming archipelagoes and those faced with armed insurrection and internal conflicts are not adequately protected against mercenarism in its various forms. International legal instruments that characterize mercenary activities negatively do exist, but their configuration and classification leave something to be desired. In other words, they contain gaps, inaccuracies, technical defects and obsolete terms that allow overly broad or ambiguous interpretations to be made. Genuine mercenaries take advantage of these legal imperfections and gaps to avoid being classified as such.

49. Article 47 of the 1977 Protocol I Additional to the Geneva Conventions of 1949 is the only universal international provision in force that contains a definition of mercenaries; paragraph 1 punishes the mercenary by excluding him from the category and rights of combatant or prisoner of war, which amounts to condemning him for his participation, for pay, in armed conflicts; and paragraph 2 then states the definition. The first point to emphasize is that, because of its placement and contents, article 47 of Additional Protocol I does not legislate on mercenary activities, but, rather, limits itself, from the standpoint of international humanitarian law, to providing for the possibility of mercenarism and defining the legal status of the mercenary if he takes part in an armed conflict. As may be seen, the purpose is not to eliminate or proscribe mercenary activities in general, but simply to regulate a specific situation. There is no other existing universal law. Hence the above-mentioned gaps.

50. In addition, the definition of mercenary contained in article 47 of Additional Protocol I lists the cumulative and concurrent requirements that must be met in order to determine who is a mercenary and who is not. Given the variety and complexity of the armed conflicts of the past three decades, however, the wording of this provision has not always been suitable for classifying mercenary activities.

51. According to the information provided directly to the Special Rapporteur by Governments, the laws of most Member States do not classify mercenarism as

a crime. In others, although it is classified as a crime, there is no known case in which the law has been enforced against anyone accused of being a mercenary. For instance, the 1870 Foreign Enlistment Act, a law in force in the United Kingdom of Great Britain and Northern Ireland, prohibits British citizens from becoming mercenaries and from recruiting them. However, the last case in which a person was tried under that law dates back to 1896.

52. The International Convention against the Recruitment, Use, Financing and Training of Mercenaries adopted by the General Assembly on 4 December 1989 has not yet entered into force, although it has been more than nine years since its adoption as barely 16 States have ratified or acceded to it. While its provisions contain measures which are a step forward towards the eradication of this reprehensible activity, it should be noted that article 1, paragraph 1, reproduces almost verbatim the text of article 47 of Additional Protocol I on the definition of a mercenary. Added paragraph 2 relates to mercenary violence against the constitutional order or territorial integrity of a State. No progress has therefore been made with regard to a better and simpler definition of the concept of mercenary, which would allow quicker and more direct action to be taken against mercenary activities. In any event, the Special Rapporteur must point out that it would be easier to improve this important instrument if it were to enter into force in the near future.

53. In this context of the gaps in and the limitations of universal international legislation, the countries of Africa enjoy better legal protection thanks to the Convention for the Elimination of Mercenarism in Africa, which was adopted by the Organization of African Unity (OAU) at its 1977 meeting in Libreville and entered into force in 1985. But "better legal protection" does not mean full protection against all the current shapes, forms and manifestations which mercenary activities may take on that continent.

54. Clearly then, the gaps in and the inadequacy of existing legislation are manifest and to prolong the situation increases the risks and threats to the self-determination of peoples, the sovereignty of States and the enjoyment of human rights. It is superfluous to point out that it is precisely this context of legal ambiguities which is making mercenary activities more frequent and increasing the hiring and recruitment of mercenaries by private companies providing security services and military advice and assistance. Recourse is being had to mercenaries and companies that recruit, finance and employ them, without any real legal consequences for those who do the hiring or those hired. Most of the mercenaries who fought in wars in the 1990s in the Former Yugoslavia, Angola, Georgia, Nagorno Karabakh or the Democratic Republic of the Congo (then Zaire) now live comfortably in their homes, quite unbothered by the justice system, awaiting new offers to fight.

55. For the above reasons, the Special Rapporteur maintains that the relevant international legal instruments are but imperfect tools for preventing and punishing mercenary activities. There are difficulties in applying article 47 of the 1977 Additional Protocol I to the 1949 Geneva Conventions, particularly in cases where the person acquires the nationality of the country in which the fighting is taking place; mercenarism is not classified as an offence under the internal criminal law of many countries, and the International Convention against the Recruitment, Use, Financing and

Training of Mercenaries has yet to enter into force, given the small number of States that have expressed an interest in becoming parties to it. Consequently, the international community is faced with a situation that actually affects it and the time has come for the consideration of the issue by the Commission on Human Rights also to include the need to review and update international legislation on mercenary activities.

C. Terrorism and mercenary activities

56. A mercenary is a criminal; he acts not out of altruistic motives, but to earn money in exchange for his tactical and strategic skills and his handling of weapons and explosives. In this regard, the material connection between a mercenary's activity and the commission of terrorist acts has been established through many terrorist attacks in which the perpetrator was proven to be one or more mercenaries hired to commit the crime.

57. In paragraph 116 of the report submitted to the Commission on Human Rights, document E/CN.4/1997/24, the Special Rapporteur maintained that various forms of terrorist attacks are carried out by highly specialized criminal agents who are hired to blow up aircraft, mine bridges, destroy buildings and industrial complexes, assassinate and kidnap persons, etc. While in many cases the terrorist agent comes from fanatic groups espousing extremist ideologies, it must be remembered that terrorism is also a criminal activity in which mercenaries participate for payment, disregarding the most basic considerations of respect for human life and a country's legal order and security.

58. In parallel with this conclusion, the recommendation contained in paragraph 125 of the report maintained that "The international community must take into account the connection existing between terrorism and mercenary activities and the participation of mercenaries in criminal acts of a terrorist nature. It is suggested that commissions and working and study groups for the prevention and punishment of terrorism should be recommended to include mercenary activities in their analyses and conclusions".

59. The whole world was shaken by last year's terrorist attacks in Kenya and Tanzania. We know that they were by no means the first and that the madness of fanatical sects may cause further mass crimes against humanity. In this context, the Special Rapporteur considers it crucial to investigate the connections between the commission of terrorist attacks and the presence of mercenaries as material agents of these acts. To fail to consider a hypothesis such as that outlined here or to use a different criterion to assess the two phenomena, on the grounds that the motivation is different, would be a serious error that would weaken the line of prevention of terrorism and mercenary activities.

60. A mercenary involves himself in armed conflicts as a function of his military experience, doing so for substantial reward. Many mercenaries who are experts in the use of explosives and technical devices with destructive material effects are hired to commit deadly attacks that cause collective fear and dread or, in other words, indiscriminate terror. Accordingly, although the mercenary is not involved in the formulation of extremist ideologies that allow terror as a means of intimidation for the achievement of its objectives,

he assumes the status of terrorist when, for pay, he agrees to become the instrument of terror and commits acts that cause death and destruction with horrible efficiency. Without ceasing to be one, a mercenary can also become a terrorist.

61. Political, racial, religious and other types of extremist organizations whose thirst for vengeance or hatred leads them to call for the destruction of anyone who opposes them do not resort exclusively to their fanatical militants to carry out objective actions aimed at spreading terror. The search for morally reprehensible "efficiency" usually leads them to attempt to hire experts in explosives or assaults who agree for substantial pay to hire themselves out as mercenaries.

62. These organizations, which have made their criminal terrorist practices explicit, usually invite persons of various nationalities to join. Consideration must be given to the possibility of their recruiting and hiring mercenaries and of some of their affiliates or members hiring themselves out as mercenaries. Consequently, the Special Rapporteur emphasizes in his recommendation to the Commission on Human Rights that the study and analysis of this matter should be conducted with the utmost care and rigour.

IV. PRIVATE SECURITY AND MILITARY ASSISTANCE COMPANIES AND MERCENARY ACTIVITIES

63. In the previous report he submitted to the Commission on Human Rights at its fifty-fourth session (E/CN.4/1998/31), the Special Rapporteur dealt fully with private companies operating in the international market offering security services and military assistance and advice, normally matters reserved for the State and for which the State must assume responsibility. All the arguments and reservations expressed in that report are still valid and the Special Rapporteur therefore reiterates his position on and his concern about a matter that can affect State sovereignty, the self-determination of peoples, the stability of constitutional Governments and, more particularly, the current system of human rights protection and international humanitarian law.

64. These companies are developing their offers more and more aggressively, putting forward arguments for legitimacy based on military efficiency, cheaper operations, their personnel's proven experience and an alleged comparative advantage that would make it feasible or desirable to hire them for peace-building or peacekeeping operations such as those conducted by the United Nations or ECOWAS. In documents prepared by these companies, the Special Rapporteur has read studies of the comparative costs of various peacekeeping operations and what these companies would charge, with the difference, according to them, of greater efficiency for breaking up pockets of resistance, extinguishing hardline opposition or opening up avenues for humanitarian assistance. Advertising for these companies and the services and jobs they offer can be found on the Internet and leave no doubt as to what is being offered and the connection with mercenary agents.

65. In contrast, national States are showing no sign of a reaction that focuses on these companies' international expansion and the dangers it entails for State sovereignty and objectives. In his correspondence with Member States, the Special Rapporteur has asked for their opinion on this matter, but

the replies received have not dealt with it. This silence is alarming inasmuch as there are situations in which a country's press reports in abundant detail on the presence of companies involved in matters of national security and public safety without regard for human rights and in open contradiction with constitutional provisions that categorically state that internal order and security are the exclusive responsibility of the State.

66. South Africa is the country that has adopted the clearest position on these companies and their supply of military assistance services abroad. A South African law enacted in 1998 regulates military assistance abroad and defines the jurisdiction of private companies in this regard. It introduces a sentence of no more than 10 years' imprisonment and a fine of no more than 1 million rand for nationals or foreigners resident in South Africa who participate in military missions outside South African territory unauthorized by the State. It also imposes limits on the freedom of security companies to deal with military matters. It regulates, but does not prohibit, the existence of these companies which employ mercenaries. Meanwhile, Executive Outcomes, a company which was established in 1989 on the initiative of Eeben Barlow and has broad experience in military assistance in African countries, has complied with the law and registered with the Department of Defence as an organization providing military assistance, mainly training, abroad. In any event, it will be necessary to see the practical consequences of the law in order to form a definite opinion on its usefulness and efficiency.

67. During his mission to South Africa in October 1996 at the invitation of President Mandela's Government, the Special Rapporteur was told by Barlow that his company had no problems with the promulgation of that law, provided that it did not represent an added administrative burden that could reduce his organization's operational efficiency. As to the rest, he said, his company did business only with legitimate Governments and not with rebels or insurgents and made every effort to be scrupulous in its respect for the human rights of the inhabitants of the countries in which it intervened and for the rules of international humanitarian law. However, a recent Channel 4 documentary on "The War Business" shown on British television in May 1998 charged that Executive Outcomes had exploded a napalm bomb in a market in an African village, killing 500 people, including civilians, of course, in a single day.

68. Regardless of the declarations of good intentions and respect for human rights and humanitarian law made by the directors of these companies, the Special Rapporteur emphasizes that a matter of principle is the basis of the analysis and of the stance that the Commission on Human Rights should adopt. National security and public safety and action to combat rebels, traffickers and terrorists are not merchandise that can be freely sold. They are, instead, matters related to a State's very existence and raison d'être; providing security and maintaining law and order is solely the State's responsibility.

69. One argument is that, at a time of the globalization of the economy, information and communications, the privatization of security and law enforcement is also permissible. This argument holds that, when transnationals arrive in an underdeveloped country, they have to have their

own experienced security guards to police the perimeter of their facilities, since the security forces of the country in question do not offer any guarantees. If the area is prone to insurgency or organized crime, why, they ask, not allow these private guards to intervene and clean up the region, fighting even rebels or traffickers? The answer is clear: who guarantees the human rights of the inhabitants? Who guarantees that the provisions of the 1949 Geneva Conventions and their Additional Protocols will be respected in such fighting? Who guarantees that these companies, whose sole purpose is gain, will not artificially intensify or prolong the conflicts and situations of insecurity for the sole purpose of extending their stay and earning more money? It is not acceptable for private companies, which are perfectly legitimate in civil or commercial activities and whose sole aim is money, to replace a country's army and police force in providing national security and public safety and protecting the exercise of civil rights.

70. If Governments accept this substitution, they forsake their peoples and expose them to the risks of private protection that can discriminate among population groups for reasons of race or ideology; make use of military offensive and combat weapons normally reserved for forces that are the expression of the authority of the State; and, in that context, commit every kind of human rights abuse and violation.

71. If, as indicated above, private companies providing security services and military assistance and advice resort to the use of mercenaries, it must be made clear that the explanation given, i.e. that they act in the service of a constitutional or legitimate Government or to restore one to power, is not acceptable. The distinction between using mercenaries for good or evil ends is no more admissible than is the distinction between good and bad mercenaries. A State's weakness, a State's impoverishment and disintegration, the breakdown of the constitutional system, internal armed conflicts and anything that might constitute a grave risk for public order and peace in a country must be resolved on the basis of the multilateral security agreements that exist in all regions and on all continents, calling on international cooperation and strengthening all the peace-building and peacekeeping operations which are, according to the San Francisco Charter, to be carried out by the United Nations.

72. Specifically, it is neither lawful nor advisable, no matter how often short-term or emergency reasons are invoked, to entrust a country's security and the speedy settlement of armed conflicts to private companies which hire mercenaries to achieve those objectives and will earn substantial economic profits for their participation. Consider also that countries facing a situation in which they call on these companies are usually in a poor economic and financial position and lack the funds to pay for their services. They are therefore obliged to do so by granting concessions for resources that are part of the national heritage. The companies are prepared for this highly lucrative eventuality and have set up various branches and subsidiaries. Thus, Strategic Resources Corporation (SRC), the holding company for Executive Outcomes, has other independent companies such as the Branch Energy mining and oil company; Heritage Oil and Gas; Diamond Works, established in Vancouver in 1996 and today Canada's largest diamond producer; and airlines such as Ibis Air and other transport, logistics and service enterprises.

73. Of the companies offering security services and military assistance and advice on the globalized world market, mention should be made of Defence Systems Limited (DSL), which provides security to several mining and oil companies, Saladin Security; Control Risks Group; Braddock, Dunn and McDonald Inc. (BDM) headed by a former United States Secretary of Defense and headquartered in McLean, Virginia; Integrated Security Systems; Booz Allen and Hamilton, which trains the Saudi military forces; Vinnell Corporation, with Viet Nam war experience; O'Gara Protective Services; Science Applications International Corporation (SAIC); and Military Professional Resources Incorporated (MPRI), with headquarters in Alexandria, Virginia, which trained the Croatian army in 1995 and is currently training the armed forces of Bosnia and Herzegovina. These companies may affect the exercise of sovereignty in the countries in which they operate, create resentment among the inhabitants and contribute to impunity for the crimes committed by the mercenaries they hire.

74. Who is responsible for the human rights violations committed? The company will say it is the mercenaries acting individually or abusing their powers. The State will say that responsibility lies with the company and not with its own officials or forces. It is time for Member States and for the Commission on Human Rights to make a detailed study of this matter. More and more Governments are hiring these companies to settle the military conflicts that are destabilizing them, knowing full well that a mercenary component is included in the offer. Other bodies, including international organizations, sign contracts with them for security and logistical support. It is predictable that some Governments may also resort to this type of company to undertake unilateral action in another country, on the pretext of establishing order or ensuring peace in a given region. All of this is tantamount to officially tolerated mercenary intervention, even if it is with "the best of intentions".

75. Must the Commission on Human Rights accept such a situation? Is it not obvious to the international community that the trend is to replace traditional peacekeeping forces, which, under international law, are the responsibility of the United Nations and regional organizations, by operations carried out by these companies? It is rather strange that, in parallel with the growth of these companies' activities, a smear campaign has been waged against peacekeeping operations and that reference is being made to the unfortunate events in Somalia. The Commission should pay priority attention to the fact that a kind of privatization of war is being promoted through unilateral positions implemented by these private companies, with unforeseeable implications for the exercise of human rights. The Special Rapporteur's point of view has already been stated: without undermining the principles on which its very existence is based, the international community cannot allow the free and globalized market to function as well for operations for the sale of military assistance and peacekeeping and peace-building operations that are the province of the international organizations. To do otherwise would mean, in practice, allowing paramilitary forces with a mercenary component to interfere in internal affairs. In view of its special importance, however, the Special Rapporteur is, in accordance with his terms of reference, continuing to study this question in depth.

76. When this report is published, the Special Rapporteur will already have visited the United Kingdom, a country where some of the companies working in this line of military assistance and advisory services are registered. The results of the visit will form the basis of the Special Rapporteur's next report to the General Assembly. The Special Rapporteur would nevertheless consider it advisable for the Commission on Human Rights and other United Nations bodies to look into the possibility of convening an international conference of experts to study and take specific decisions on this matter, paying particular attention to the fact that these companies would like to be regarded as an alternative to the conduct of United Nations peace operations; that the hiring of such companies may lend legitimacy to the use of mercenaries; and, in particular, that a system should be devised for the protection of international human rights and the rules of international humanitarian law in a world of privatized wars and private combatants and police.

V. CURRENT STATUS OF THE INTERNATIONAL CONVENTION AGAINST THE RECRUITMENT, USE, FINANCING AND TRAINING OF MERCENARIES

77. The Special Rapporteur has shown in his preliminary reports to the Commission on Human Rights that the International Convention against the Recruitment, Use, Financing and Training of Mercenaries, adopted by the General Assembly on 4 December 1989 in its resolution 44/34, expands the international regulation of the question and confirms the legal nature of the resolutions and declarations of United Nations bodies condemning mercenary activities. Its entry into force will contribute to preventive cooperation among States, better identification of situations involving mercenaries and the clear determination of jurisdiction in each case and will facilitate procedures for the extradition of mercenaries and the effective prosecution and punishment of offenders.

78. Unfortunately, only 16 States have completed the process of expressing their willingness to be bound by the International Convention, while a further 22 are required for its entry into force. Those States are: Azerbaijan, Barbados, Belarus, Cameroon, Cyprus, Georgia, Italy, Maldives, Mauritania, Saudi Arabia, Seychelles, Suriname, Togo, Turkmenistan, Ukraine and Uzbekistan. Ten other States have signed the International Convention, but have not yet ratified it. They are: Angola, Congo, Democratic Republic of the Congo, Germany, Morocco, Nigeria, Poland, Romania, Uruguay and Yugoslavia. Pursuant to article 19, the International Convention is to enter into force on the thirtieth day following the date of deposit of the twenty-second instrument of ratification or accession with the Secretary-General. Its failure to enter into force nine years after its adoption means that international legislation on mercenaries continues to be limited to article 47 of the 1977 Protocol I Additional to the Geneva Conventions of 1949 and the 1977 OAU Convention on the Elimination of Mercenarism in Africa.

VI. CONCLUSIONS

79. Mercenary activities continue to exist in many parts of the world and to take on new forms. The recruitment and hiring of mercenaries by private companies providing security services and military assistance and advice and,

in turn, the hiring of these companies by Governments which entrust them with responsibility for security, maintaining public order and safety and even armed combat against rebel forces and organized crime are a serious challenge to the international human rights protection system currently in force.

80. Although mercenaries pose as technicians or military experts hired as such by private companies providing security services and military assistance and advice, or by Governments, this changes neither the nature nor the status of those who hire themselves out to meddle and cause destruction and death in foreign conflicts and countries.

81. Since the nature of the act and the classification of a mercenary have not changed, although the forms and operational methods have, the condemnation of mercenary activities and the use of mercenaries by the Commission on Human Rights and other United Nations bodies is still valid. Mercenary activities impede the exercise of the right of peoples to self-determination and jeopardize the sovereignty of States, the principle of non-interference in internal affairs, the stability of constitutional Governments and the enjoyment of the human rights of the peoples concerned. They are, by definition, wrongful and unlawful activities.

82. The diversification and modernization of operational methods do not mean that mercenary activities are disappearing; rather, the conclusion is that, as mercenaries have become better organized and their pay has increased, their numbers have grown and more persons are prepared to do the job, although, for reasons of self-esteem, they sometimes prefer to pose and think of themselves as military experts or soldiers of peace.

83. The information received by the Special Rapporteur suggests that, even though Africa continues to be the continent most affected by mercenary activities, these activities have spread to other continents, although the methods of operation vary according to the situation in the country in which their services are hired.

84. Mercenaries have been particularly active in Sierra Leone, where they were taken first by Executive Outcomes, the security and military advisory and assistance company registered in South Africa, and then by Sandline International, which is registered in the Bahamas and has offices in London. These two played an important role in the overthrow of the military junta of the alliance formed by the Armed Forces Revolutionary Council (AFRC) and the Revolutionary United Front (RUF) and in restoring democratically elected President Tejan Kabbah to power. They also trained the Kamajor paramilitary troops who are fighting the rebel forces of the overthrown Government with the acquiescence of the current Government and are responsible for grave human rights violations against prisoners and the civilian population. As a result of this intervention, a number of affiliates of Executive Outcomes and Sandline International are now exploiting Sierra Leone's mineral resources and the Diamond Works company has become Canada's largest diamond producer thanks to its operations in this West African country.

85. The Special Rapporteur has observed that the current situation is marked by the inadequacy of the international rules which deal with and punish

mercenarism. The legal gaps and ambiguities detected suggest that the existing set of rules is by no means effective for successfully combating mercenary activities.

86. Mercenarism is not classified as a separate crime in the criminal legislation of most States, a situation that prevents legal action from being taken against mercenaries, except when they have committed related offences and are charged therefor.

87. Terrorist acts may be committed by mercenaries. Further consideration should be given to studies and the adoption of anti-terrorist policies; mercenarism should be seen as an aggravating factor in the crime of terrorism when there is proof that a mercenary planned, took part in or committed the terrorist act.

88. The increase in the number of companies providing security services and military assistance and advice on the international market and their recruitment and hiring of mercenaries raise serious questions about responsibility for human rights violations and encourage impunity. Governments are therefore tempted to transfer their responsibility for the violations committed to these companies and they, in turn, transfer it to the mercenaries they have recruited. The Commission on Human Rights must give priority to this matter because it will affect the entire international system for the protection of human rights.

89. The hiring of private companies providing security services and military assistance and advice is also an indicator of vested interests, more particularly those of third Powers, which see the use of this type of company as a way of effectively intervening in another country's internal affairs, without having responsibility for such intervention being attributed to them directly, without their own military forces risking casualties and without having to bear military costs.

90. The growth of this type of company is indicative of little, if any, international reaction to their activities. Even some international organizations have given in to the temptation of using their services to obtain logistical support to or open up avenues of humanitarian assistance. There is also a chance that traditional Government peace-building and peacekeeping forces may be replaced by these companies, in conjunction with a smear campaign against the Government forces and reminders of serious incidents that have occurred, such as those in Somalia. The possibility of an artfully devised campaign and intentionally promoted tolerance of this type of company warrants serious investigation.

91. The legal gaps, defects and ambiguities that currently facilitate mercenary operations by these polyvalent companies should be remedied through explicit rules that regulate and clearly limit what these private companies may and may not do internationally, while clearly defining their responsibility for human rights violations and abuses and other crimes and offences, as well as that of the States that hire them and that of the individuals who recruit them. The United Nations mandate and its work in peace-building and peacekeeping operations must be strengthened at the same time.

92. As the tenth anniversary of the General Assembly's adoption of the International Convention against the Recruitment, Use, Financing and Training of Mercenaries approaches, only 16 States have agreed to be bound by it. The fact that it has not entered into force continues to contribute to the increase in the criminal activities of mercenaries.

VII. RECOMMENDATIONS

93. The Commission on Human Rights should pay priority and urgent attention to the challenge to the system for the international protection of human rights created by the growth and development of companies providing security services and military assistance and advice, their recruitment and use of mercenaries and the increase in the use of such companies by Governments facing internal armed conflicts or the aggression of organized crime or terrorism. Because of the difficult situation they are in, these Governments do not have the funds to pay for the services of these companies and have to grant them major concessions of mineral and oil resources that account for a valuable share of their national heritage. The blurred lines of responsibility for human rights violations and the resulting impunity must be carefully studied by the Commission.

94. The Commission on Human Rights must continue to uphold its explicit condemnation of mercenary activities, regardless of the form they take, requesting the Member States of the United Nations to classify mercenarism as a crime in their internal criminal law and to make the fact of being a mercenary an aggravating factor in the commission of other wrongful criminal acts, especially acts of terrorism.

95. The Commission on Human Rights must also communicate once more with all Member States of the Organization to recommend that they should explicitly prohibit the use of their territory for the recruitment, training, assembly, transit, financing and use of mercenaries.

96. Given the legal ambiguities and gaps that currently facilitate the use of mercenaries and the increase in their numbers, it is recommended that the Commission on Human Rights should invite Member States to ratify or accede to the International Convention against the Recruitment, Use, Financing and Training of Mercenaries.

97. The Commission on Human Rights also has to consider the serious risk of joint action by terrorists and mercenaries in carrying out attacks in which some are motivated by ideological, political or religious beliefs, or simply by hatred, while others just want to earn money. It should therefore be recommended that the studies, plans and action which the Commission considers in order to prevent and punish human rights violations and abuses, particularly terrorism, should also take account of the dimension of participation by mercenaries.

98. The Commission should recommend to the Economic and Social Council that it allocate the necessary financial and budget resources to the Office of the United Nations High Commissioner for Human Rights to enable it to disseminate information, in the bulletins it is publishing, on the adverse effects of mercenary activities on the enjoyment of human rights and the exercise of the

right of peoples to self-determination. The Office of the High Commissioner must also be allocated the resources it needs to provide technical assistance services to countries which have suffered the consequences of mercenary activities, if they so request.

99. The Commission on Human Rights must remind all States and international organizations of the need for constant vigilance in monitoring companies that employ mercenaries, particularly those that offer security services and military assistance and advice on the globalized international market.

100. The Commission on Human Rights must carefully monitor the human rights situation and the exercise of the right of peoples to self-determination in the countries where these companies operate.

101. The Commission must also remember that mercenaries base their comparative advantage and greater efficiency on the fact that they do not regard themselves as being bound to respect human rights or the rules of international humanitarian law. Greater disdain for human dignity and greater cruelty are considered efficient instruments for winning the fight. The participation of mercenaries in armed conflicts and in any other situation in which their services are unlawful may jeopardize the self-determination of peoples and always hampers the enjoyment of the human rights of those on whom their presence is inflicted.





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**RACISM, RACIAL DISCRIMINATION, XENOPHOBIA AND
ALL FORMS OF DISCRIMINATION**

**Report of the High Commissioner for Human Rights submitted
pursuant to Commission resolution 1998/26**

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Introduction

1. The General Assembly, in its resolution 52/111 of 12 December 1997 entitled "Third Decade to Combat Racism and Racial Discrimination and the convening of a world conference against racism, racial discrimination, xenophobia and related intolerance", decided to convene a World Conference against racism, racial discrimination, xenophobia and related intolerance, to be held not later than the year 2001. The Conference will be action-oriented and focus on practical measures to eradicate racism, including measures of prevention, education and protection and the provision of effective remedies. One of its aims will be to increase the effectiveness of United Nations programmes aimed at eradicating contemporary forms of racism and racial discrimination.
2. In its resolution 1998/26 of 17 April 1998, the Commission on Human Rights invited the High Commissioner for Human Rights to submit to the Commission at its fifty-fifth session a preliminary analytical study on the objectives of the World Conference against Racism and Xenophobia as identified by the General Assembly in its resolution 52/111. The Commission then invited States, the specialized agencies, the competent United Nations bodies, international organizations and non-governmental organizations to contribute to the preparatory process for the Conference by making known their views on these objectives. The Commission also invited the High Commissioner to submit a compendium of references to publications and other works on racism, racial discrimination, xenophobia and related intolerance. The present report is submitted pursuant to this resolution.
3. The seven main objectives proclaimed by the General Assembly in paragraph 28 (a) to (f) of resolution 52/111 underlie the format of this first general report, which consists of two parts. The first contains a brief analytical outline of the objectives of the World Conference while the second presents a brief review of the views communicated to the Office of the High Commissioner for Human Rights by certain States, United Nations bodies and NGOs. The annex contains an initial and not exhaustive list of publications, studies, reports and documents prepared by United Nations bodies and regional organizations on racism and xenophobia.
4. In addition to the present document, which concentrates on the objectives of the World Conference, the secretariat has prepared a number of information papers that will be examined by the open-ended working group which is to meet during the Commission's fifty-fifth session in order to review and formulate proposals for consideration by the Commission and for possible forwarding to the Preparatory Committee at its first session. These papers will usefully supplement the preliminary analysis presented in the first part below.

* * *

First part

The objectives of the World Conference against Racism:

A brief analytical outline

Introductory note

5. Since it is no easy matter to undertake an analysis, even of a preliminary nature, of the seven principal objectives of the World Conference in view of the scope of the topics proposed by the General Assembly, it was decided to tackle this task by first examining the various decisions, recommendations and programmes of action adopted by selected United Nations bodies and mechanisms and then drawing attention to measures that have been implemented and to activities carried out or proposed by way of follow-up action, after which an attempt is made to dovetail the results into the seven objectives fixed by the General Assembly.

6. The principal sources used for purposes of this analysis were the various reports of the Committee on the Elimination of Racial Discrimination, as well as those of the Commission on Human Rights and the Sub-Commission on Prevention of Discrimination and Protection of Minorities, the Programmes of Action of the Second and Third Decades to Combat Racism and Racial Discrimination, the report of the Second World Conference to Combat Racism and Racial Discrimination, and in particular the Programme of Action adopted by the Conference, several reports by the Special Rapporteur on contemporary forms of racism, the conclusions of two seminars organized by the Office of the High Commissioner for Human Rights - the first on the political, historical, economic, social and cultural factors contributing to racism and the other on the role of Internet - the conclusions of the Working Group of Experts on Human Rights of Migrants and, lastly, a number of studies dealing with racism and racial discrimination prepared by the Committee on the Elimination of Racial Discrimination.

I. REVIEW OF PROGRESS MADE IN THE FIGHT AGAINST RACISM
AND XENOPHOBIA AND REAPPRAISAL OF OBSTACLES TO
FURTHER PROGRESS

A. The progress made

1. At the international level

7. In 1945 and again in 1948 the United Nations embarked resolutely on the task of combating racism by rejecting the concept of racial distinction in its Charter (Art. 1 (3)) and in the Universal Declaration of Human Rights (art. 2); this position was subsequently confirmed in the two Covenants of 1966, namely, the International Covenant on Economic, Social and Cultural Rights (art. 2, para. 2) and the International Covenant on Civil and Political Rights (art. 2, para. 1). Pursuing its task, in 1963 it adopted the United Nations Declaration on the Elimination of All Forms of Racial Discrimination (including policies of apartheid - referred to in article 5) and, in 1965, the International Convention on the Elimination of All Forms of Racial Discrimination. This Convention constitutes the most widely recognized

of the international instrument designed to combat racism for on entering into force on 4 January 1969 it was the one that had been accepted by the largest number of countries. On 31 July 1998, it had been ratified and acceded to by 150 States.

8. The merit of the Convention was that it defined the measures that States parties undertook to adopt in order to eliminate racial discrimination (arts. 1 to 7). Article 1 clearly defines racial discrimination in the broad sense and describes the scope of application of the instrument. The provisions of the Convention also place respect for the obligations of States parties under international control and establish the three following procedures for this purpose: the preparation of mandatory reports by all States parties, a petitions procedure at the inter-State level and, lastly, an optional procedure authorizing the submission of communications by individuals or groups of individuals (art. 14).

9. It was in order to monitor the application of these three procedures that the Committee on the Elimination of Racial Discrimination was established. The Committee also considers questions of racial discrimination in trusteeship or non-autonomous territories; it is required to report on all its activities, and also submit its opinions, suggestions and general recommendations, to the United Nations General Assembly. Its establishment represented one of the most remarkable achievements in the context of efforts to combat racism. In order to adapt to new situations, the Committee has proposed new types of action, such as early-warning measures and emergency procedures, and has paid particular attention to the application of the Convention in States whose reports are long overdue.

10. The case of South Africa offers an example of the effectiveness of efforts to combat racism, since the international community took resolute action against one of the most flagrant instances of massive human rights violations that has ever occurred - the policy of apartheid. The reaction of the United Nations was impressive: from 1952 up to the end of the apartheid regime, a large number of measures, resolutions and conventions were adopted to combat the racial discrimination practised under this system. Nevertheless, despite the end of the apartheid regime, resistance persists on the part of certain segments of society which still espouse racist ideas.

2. At the national level

11. The programmes of action adopted by the General Assembly in its efforts to curb racism and racial discrimination were conceived in terms of decades. Two decades have already elapsed and the Third Decade to Combat Racism and Racial Discrimination began in 1993. Programmes during the first two decades were focused on sensitizing public opinion and mobilizing national legislatures. As a result, several Governments promulgated laws designed to combat discrimination and a not insignificant number of countries incorporated provisions to that effect in their Constitutions and specified ways in which it should be curbed (civil and criminal legislation or decrees).

B. Existing obstacles

12. The efforts of the international community notwithstanding, the principal objectives of the first two Decades to Combat Racism and Racial Discrimination have not been attained and millions of human beings continue to be victims of various forms of racism and racial discrimination. At the international level the problem therefore remains alarming and is becoming more acute owing to the current immigration crisis. The rise of racist and xenophobic ideas in political circles, in the sphere of public opinion and in society at large is particularly alarming.

13. In its most recent resolution on the subject of racism and racial discrimination (1996/26), the Commission on Human Rights notes with deep concern that, despite continuing efforts, contemporary forms of racism, racial discrimination, any form of discrimination against, inter alia, Blacks, Arabs and Muslims, xenophobia, Negrophobia, anti-Semitism and related intolerance persist and are even growing in magnitude, incessantly adopting new forms and becoming increasingly violent, and reveal a tendency to be based on racial, religious, ethnic, cultural and national superiority or exclusivity.

14. The Commission was also mindful of General Assembly resolution 45/105 of 14 December 1990, in which the Assembly declared once again that all forms of racism and racial discrimination, particularly in their institutionalized form, such as apartheid, or resulting from official doctrines of racial superiority or exclusivity, were among the most serious violations of human rights in the contemporary world and must be combated by all available means.

15. The General Assembly, in resolution 52/111, therefore decided to convene a World Conference against racism, racial discrimination, xenophobia and related intolerance, to be held not later than the year 2001. The Conference will be action-oriented and focus on practical measures to eradicate racism, including measures of prevention, education and protection and the provision of effective remedies; it will in particular endeavour to increase the effectiveness of United Nations programmes aimed at combating contemporary forms of racism and racial discrimination.

II. ENSURING RESPECT FOR EXISTING STANDARDS AND INSTRUMENTS TO COMBAT RACISM AND XENOPHOBIA

A. Implementation of international instruments

16. On two occasions at least (in resolutions 1997/74 and 1998/26), the Commission on Human Rights invited all States which had not yet done so to consider ratifying or acceding to the relevant international instruments, and in particular the International Convention on the Elimination of All Forms of Racial Discrimination; it also called upon States which had not yet done so to implement these instruments. The question of the universal ratification of the Convention is, in point of fact, one that the Conference is to examine.

17. The Programme of Action adopted by the Second World Conference to Combat Racist and Racial Discrimination in August 1983 contained an appeal to States which had not yet done so to consider ratifying or acceding to, as soon as possible, other relevant international instruments, such as the Convention on

the Prevention and Punishment of the Crime of Genocide (1948), the International Covenant on Economic, Social and Cultural Rights (1996), the International Covenant on Civil and Political Rights (1996), the Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity (1968), the Discrimination (Employment and Occupation) Convention (1958) of the International Labour Organization, the UNESCO Convention against Discrimination in Education (1960) and the Convention on the Elimination of All Forms of Discrimination against Women (1979).

18. In the two resolutions mentioned above, the Commission on Human Rights requested States parties to the Convention on the Elimination of Racial Discrimination which had not yet done so to consider the possibility of making the declaration provided for in article 14, which recognizes the competence of the Committee on the Elimination of Racial Discrimination to receive and examine communications from individuals. This would enable the Committee to contribute in larger measure to the enforcement of the standards embodied in the Convention.

19. Furthermore, in its most recent resolution (1998/26), the Commission called upon States parties that had not yet done so to submit initial or periodic reports in accordance with article 9 of the Convention.

B. Adoption or revision of national legislation

20. At the domestic level, the Second World Conference to Combat Racism and Racial Discrimination, in its Programme of Action, suggested that States should consider the urgent enactment, as a matter of the highest priority, of appropriate legislation and other suitable measures to prohibit and bring to an end racial discrimination, to abrogate, amend, rescind or nullify any policies or regulations that have the effect of creating or perpetuating racial hatred and, with due regard to the principles embodied in the Universal Declaration of Human Rights, the United Nations Declaration on the Elimination of All Forms of Racial Discrimination, the UNESCO Declaration on Fundamental Principles concerning the Contribution of the Mass Media to Strengthening Peace and International Understanding, to the Promotion of Human Rights and to Countering Radicalism, Apartheid and Incitement to War (1978), the UNESCO Declaration on Race and Racial Prejudice (1978), and the rights set forth in the International Convention on the Elimination of All Forms of Racial Discrimination, to declare the dissemination of ideas based on racial superiority and hatred to be an offence punishable by law.

21. The Conference also recommended that:

(a) Governments, where necessary, should guarantee non-discrimination on grounds of race and equal rights for all individuals in their constitutions and legislations;

(b) Governments, where necessary, should undertake to review and update all national legislation and remove all discriminatory provisions;

(c) Legislation should be consistent with international standards embodied in relevant international instruments;

(d) Victims of discrimination should be informed and advised of their rights, by all possible means, and given assistance in securing those rights;

(e) Governments should, where necessary, establish appropriate and effective mechanisms, including conciliation and mediation procedures and national commissions, to ensure that such legislation is enforced effectively, and thereby to promote equality of opportunity and good race relations.

22. Lastly, in the opinion of the Conference, States should, within the framework of their national legislation and policy and according to their means, set up national institutions for the promotion and protection of human rights. National institutions should study legal developments and review the laws and policies of the national Government with a view to ensuring the elimination of all discriminatory laws, prejudices and practices based on race, sex, dissent, colour and national and ethnic origin.

III. SENSITIZING PUBLIC OPINION TO RACISM AND XENOPHOBIA

23. In June 1983, the Committee on the Elimination of Racial Discrimination prepared, for the Second World Conference, a study on the implementation of article 7 of the Convention on the Elimination of All Forms of Racial Discrimination entitled "Teaching, education, culture and information as means of eliminating racial discrimination" (A/CONF.119/11). According to the study, it was the task of States, which were responsible for the application of the Convention, to attack the problem at its roots by eliminating the causes of racial prejudices which give rise to social tensions whose harmful effects are more than apparent. It is probably for that reason that States are called upon to comply with the provisions of article 7 of the Convention which stipulates that "States parties undertake to adopt immediate and effective measures, particularly in the fields of teaching, education, culture and information, with a view to combating prejudices which lead to racial discrimination ...".

24. It is interesting to note that, already in 1983, the Committee on the Elimination of Racial Discrimination emphasized that the authorities must realize that it was their duty to make public opinion aware of the odious nature and evils of racial discrimination and to formulate and implement "public awareness" programmes to curb all forms of racial discrimination. This desire to arouse public awareness is therefore directly related to the third objective of the World Conference against Racism. In its study, the Committee recommended various measures to be taken at the domestic level (according priority to teaching, education and information) and at the international level; these measures, described in detail in chapter II of the study, are discussed briefly below.

A. Domestic measures

1. The educational value of legal or jurisdictional institutions

25. Because rules relating to equal rights are being invoked with increasing frequency, Governments are beginning to attach genuine importance to them and individuals are becoming more aware of the existence of such rights and of the possibility of exercising them by appropriate legal procedures.

26. The institutions set up at the international level are of a training and educational nature, since they have an undeniable influence on public opinion. One of the many purposes of these institutions which safeguard human rights and fundamental freedoms and protect individuals against racism is to provide humanist and humanitarian education for Governments and citizens alike.

2. Appropriate teaching

27. It would be desirable to provide education that would strengthen the position of oppressed groups so that they become aware of their possibilities, resist the violation of their rights, and are informed of the methods and legal remedies available for resisting arbitrary and unjust domination.

28. The provision of anti-racist teaching implies the existence of an appropriate teaching programme. The cultural and historical values of national minorities or migrant workers should be taught to members of the majority of the country in which these minority or ethnic groups live. Ethnic, national or linguistic minorities should also be offered the possibility of using their own languages in their social relations or in judicial or administrative proceedings on a perfectly equal footing.

29. It should be added that legal training, however sketchy, is essential: pupils and students must be aware that they have equal rights and duties, even though at present there are legal limits to the exercise of such rights - limits which must be pushed back. All citizens, particularly those who suffer unequal or repressive treatment, should be made aware that national remedies and, after the exhaustion of national remedies, international remedies are available to them if their rights are violated (further details of these international remedies may be found in paragraph 54 of the study).

3. Appropriate education

30. Teaching is the transmission of knowledge, whereas education is a system designed to train and develop the human personality. The family, the school and the university should be places that not only impart knowledge that will pave the way for a professional career but also inculcate moral and social attitudes calculated to promote the egalitarian and pluralistic ideal.

4. The systematic use of the mass media to combat racial discrimination

31. The Statement on Race and Racial Prejudice adopted by the UNESCO General Conference on 27 November 1978 defines the role that the media can play in combating racism:

"The mass media and those who control or serve them, as well as all organized groups within national communities, are urged - with due regard to the principles embodied in the Universal Declaration of Human Rights, particularly the principle of freedom of expression - to promote understanding, tolerance and friendship among individuals and groups and to contribute to the eradication of racism ..." (art. 5, para. 3).

32. Action must therefore be taken, in the campaign to combat racial discrimination, to ensure that messages transmitted by the mass media (television, radio, cinema, the press, etc.) and, more particularly, those addressed to children and young people, do not directly or indirectly portray stereotypes or contain clichés or slogans likely to foster racial prejudice. On the contrary, the media should endeavour to familiarize people, in a universal perspective, with the many aspects (philosophical or legal, literary, artistic) of unfamiliar civilizations.

B. International measures

33. It is emphasized in the study of the Committee on the Elimination of Racial Discrimination that the Committee is the main organ responsible for verifying whether the States parties to the Convention are complying with the obligations they have assumed and giving its views on the behaviour of States parties vis-à-vis their international obligations in respect of racial discrimination.

34. The duty of States to give an account, in their periodic reports, of the progress made in their systems of teaching, education and culture and possibly a certain fear of being taken to task before world public opinion for failing to fulfil their responsibilities serve to encourage a sustained effort to bring about the necessary improvements.

IV. FORMULATION OF RECOMMENDATIONS ON WAYS OF INCREASING
THE EFFECTIVENESS OF UNITED NATIONS PROGRAMMES TO
COMBAT RACISM AND XENOPHOBIA

35. In section VI of resolution 1998/26 dealing with the World Conference, the Commission on Human Rights invites several bodies and mechanisms dealing with human rights to contribute to the preparatory process for the Conference.

A. Request addressed to the High Commissioner for Human Rights

36. The High Commissioner is invited to devise and implement, with the Department of Public Information of the United Nations Secretariat, a world information campaign aimed at sensitizing world public opinion on the importance and objectives of the Conference, to publish in all the official languages an information pamphlet to be made available to non-governmental organizations, the media and the general public, and to inform the Preparatory Committee of the Conference of developments in this regard.

37. The reply of the Department of Public Information to a note verbale of the High Commissioner dated 30 September 1998 is analysed in the second part of this document (paras. 81-84).

B. Request addressed to non-governmental organizations

38. Non-governmental organizations are invited to participate fully in the preparatory process and, in accordance with the objectives of the Conference and on the basis of their experience, to make concrete proposals regarding

action to be undertaken in future, directly or working with Governments, aimed at fighting the scourge of racism, and to submit their recommendations in this regard to the Preparatory Committee through the High Commissioner.

39. On 30 November 1998, seven NGOS had replied to the note verbale of 30 September 1998. Their proposals are analysed in paragraphs 90, 93, 94, 98, 99 and 110-112 below.

C. Request addressed to the Committee on the Elimination of Racial Discrimination

40. The Committee is invited to give high priority to the preparatory process for the World Conference, to present to the Commission at its fifty-fifth session and to the Preparatory Committee its contribution to the objectives of the Conference, including undertaking a series of studies, and to participate actively in the preparatory process and at the Conference itself.

41. As stated in the introduction to the present document (para. 4) a number of information papers have been prepared for the open-ended working group responsible for formulating proposals concerning the objectives of the Conference. Some of these papers were prepared by members of the Committee on the Elimination of Racial Discrimination.

D. Request addressed to the Sub-Commission on Prevention of Discrimination and Protection of Minorities

42. The Sub-Commission is invited to carry out studies without delay, within the framework of the objectives laid down in General Assembly resolution 52/111, and to submit its recommendations to the Commission at its fifty-fifth session and, through the Commission, to the Preparatory Committee.

43. At its fiftieth session, in August 1998, the Sub-Commission adopted resolution 1998/6 relating to the World Conference; this resolution contains two decisions, one dealing with the preparation of a paper on proposals for the work of the Conference (para. 9) and the other concerning studies within the framework of the objectives of the Conference (para. 10). It also contains a recommendation concerning overall themes (para. 11) and a suggestion concerning subjects to which priority should be accorded (para. 13).

E. Request addressed to the Commission's Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance

44. Whereas section IV of resolution 1998/26 deals specifically with the Special Rapporteur's work for the Commission (paras. 25 to 36), section V contains the request addressed to the Special Rapporteur, who is invited to contribute to the preparatory work for the World Conference by identifying major issues to be considered within the framework of the major objectives indicated.

45. One of the information papers prepared for the open-ended working group (see para. 4 above) contains the recommendations made by the Special Rapporteur on contemporary forms of racism.

F. Request addressed to the relevant bodies and mechanisms of the United Nations and to regional organizations

46. The relevant bodies and mechanisms of the United Nations, the specialized agencies and regional and international organizations are invited to contribute effectively to the preparatory process for the World Conference and to forward their recommendations to the Preparatory Committee through the High Commissioner.

47. By 31 December 1998 only the Department of Public Information, the Department of Economic and Social Affairs and the Office of the United Nations High Commissioner for Refugees had replied to the note verbale of 30 September 1998. Their activities and proposals for action are analysed in paragraphs 81-84, 92 and 108, as well as 87, 88, 97 and 109 below.

V. REVIEW OF THE POLITICAL, HISTORICAL, ECONOMIC, SOCIAL, CULTURAL AND OTHER FACTORS LEADING TO RACISM AND XENOPHOBIA

48. Factors which give rise to racism and racial discrimination were examined at the seminar on the political, historical, economic, social and cultural factors contributing to racism, racial discrimination and apartheid held at Geneva from 10 to 14 December 1990. The primary causes of racism and racial discrimination are deeply embedded in the historical past and are determined by a number of economic, political, social and cultural factors. The nature of the problem of racism is global and no inhabited continent has escaped this scourge. Racial consciousness is almost universal and manifested itself in widely diverse places and at various periods throughout history. The historical and global manifestations of racism and racial discrimination are evident in different areas but have several points in common, such as conquest, the search for captives for racial slavery, the imposition of racial segregation and later of apartheid, the creation of a racial ideology, the imposition of racial exclusion laws and imperialism.

49. Objections could be raised to a narrow concept of racial discrimination based solely on skin colour. Quite often racial discrimination involving extreme violence have been perpetrated on grounds other than race, as was the case of discrimination against ethnic minorities. In any event, white-white, black-black and yellow-yellow clashes are not isolated phenomena in mankind's history. In the light of that reality, the Convention on the Elimination of All Forms of Racial Discrimination adopted a broader definition of the concept of racial discrimination which also included descent and national or ethnic origin.

50. Racism is not inborn, but is learnt from the surroundings. It has deep roots in ignorance, contempt for others, egocentrism, thirst for power, a superiority complex and a striving for domination.

51. Some consider that racism plays on the ambiguity of society. Dominant political and cultural groups deny the cultures of minority groups. The concept of racial superiority is particularly alluring to the lowest segments of society who are prepared to use any means whatever to inflate their self-esteem.

52. Some aspects of racial discrimination are of a historical nature, such as the haphazard delimitation of frontiers which created spheres of influence, protectorates and colonies, resulting in the arbitrary division of areas inhabited by peoples of different cultures, languages and religions.

53. Other factors conducive to the emergence of racism are economic. For example, when societies are confronted by economic difficulties and problems connected with modernization, racial minorities and immigrants only too often become the target of discontent. Race, colour, national origin, religion, social origin and political opinions are the most frequent reasons for discrimination in societies which are in a state of upheaval or in the throes of political and economic change. Social well-being and tolerance of others are often interdependent. The concept of minorities is changing, not because of their behaviour but because of the social well-being of the people around them.

54. These economic factors in turn have political consequences; in Europe, for example, the economic crisis tends to encourage extremist political movements which foment racial prejudice.

55. In the historical process, religion has very often been a dominant factor encouraging discrimination. For centuries all religions have inevitably been involved in the political process and have, inter alia, often used doctrine to justify arguments of a racial nature.

56. Racism cannot be completely abolished as long as racial myths and stereotypes remain in place. It is for that reason that States bear a responsibility that goes beyond the creation of a suitable legal system and are obliged to take educational and preventive measures to combat the existence of racial prejudice.

VI. FORMULATION OF RECOMMENDATIONS FOR THE ADOPTION OF ADDITIONAL NATIONAL, REGIONAL AND INTERNATIONAL MEASURES TO COMBAT RACISM AND XENOPHOBIA

57. Even the initial analysis of the recommendations and proposals made by several United Nations bodies and mechanisms active in the field of human rights makes it possible to single out a number of major themes that could be considered by the World Conference with a view to formulating recommendations for the adoption of additional measures to combat racism at the national, regional and international levels.

A. Questions relating to migrant workers

58. In the report on its first two sessions (November 1997 and February 1998), the intergovernmental working group of experts on the human

rights of migrants (E/CN.4/1998/76) presented a number of preliminary conclusions and mentioned the following elements for inclusion in its final report:

- (a) A review of relevant international instruments;
- (b) The promotion of the ratification of relevant United Nations and ILO conventions, in particular the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families;
- (c) The need to introduce a gender perspective as well as a children dimension when addressing the problems of migrants;
- (d) The need to promote full compliance with the relevant articles of the Vienna Convention on Consular Relations so as to ensure that migrants can communicate with their respective consular representatives in the countries in which they found themselves;
- (e) The need to ensure the promotion and protection by all Governments of the human rights of undocumented or irregular migrants; and
- (f) The need for a permanent United Nations mechanism to serve as a clearing-house for information on questions relevant to the full protection of the human rights of migrants.

59. The views of the Cuban Government and of the non-governmental organization North-South XXI on the question of migrants are set out in paragraphs 96 and 93 below.

B. Questions relating to women

60. The Sub-Commission on Prevention of Discrimination and Protection of Minorities at its forty-ninth session adopted resolution 1997/5 on racism and racial discrimination in which, among other things, it expresses its belief that participants in the World Conference should carefully consider the complicated interplay of discrimination based on race and discrimination based on other grounds, such as gender.

61. In two other resolutions dealing specifically with women and the girl child, the Sub-Commission draws attention to article 5 of the Convention on the Elimination of All Forms of Discrimination against Women, which provides that States parties are to take all appropriate measures to modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes (resolution 1997/8).

62. Moreover, the Sub-Commission is deeply concerned by acts of violence committed against women, and by the fact that some groups of women are especially vulnerable to acts of discrimination, violence and abuse based on gender, including women belonging to minority groups, indigenous women,

refugee women, women migrant workers, women living in rural communities, women living in poverty, women with disabilities, elderly women, women in situations of armed conflict and girl children (resolution 1997/9).

C. Questions relating to indigenous peoples

63. The Committee on the Elimination of Racial Discrimination has always paid particular attention to the rights of indigenous peoples. For example, in its General Recommendation on the subject adopted on 18 August 1997 at its fifty-first session, the Committee called in particular upon States parties to:

(a) Recognize and respect the indigenous distinct culture, history, language and way of life as an enrichment of the State's cultural identity and to promote its preservation;

(b) Ensure that members of indigenous peoples are free and equal in dignity and rights and free from any discrimination, in particular that based on indigenous origin or identity;

(c) Provide indigenous peoples with conditions allowing for a sustainable economic and social development compatible with their cultural characteristics;

(d) Ensure that members of indigenous peoples have equal rights in respect of effective participation in public life and that no decisions relating to their rights and interests are taken without their consent;

(e) Ensure that indigenous communities can practise and revitalize their culture and their customs and practise their languages.

64. In this Recommendation, the Committee also especially called upon States parties to recognize and protect the rights of indigenous peoples to own, develop, control and use their communal lands, territories and resources and, where they have been deprived of their lands and territories traditionally owned or otherwise inhabited or used without their free and informed consent, to take steps to return those lands and territories. Only when this is for factual reasons not possible, the right to restitution should be substituted by the right to just, fair and prompt compensation. Such compensation should as far as possible take the form of lands and territories.

D. Creation of evaluation and coordination machinery

65. In its Programme of Action, the Second World Conference to Combat Racism and Racial Discrimination recommended the creation of a regular system of review and appraisal to enable Member States, all organizations of the United Nations system, including relevant regional bodies and non-governmental organizations, to assess the measures taken towards achieving the aims and objectives of the Second Decade. This idea could be used in future decades as well.

66. In a similar vein, the Commission on Human Rights, in resolution 1998/26, invites States and regional organizations to set up at the

national or regional level a coordination structure responsible for launching and promoting preparations for the World Conference, and especially for sensitizing national public opinion on the importance and objectives of the Conference.

E. Use of the Internet

67. At the Second Summit of Heads of State and Government at Strasbourg (10 and 11 October 1997) the Council of Europe announced the creation of an Internet site devoted to combating racism and intolerance (www.ecri.coe.fr). The worldwide web can be used to transmit information designed to combat racism and discrimination, and regional anti-racist bodies should make greater use of the Internet for educational and information purposes.

68. The expert seminar on the role of the Internet in the light of the provisions of the International Convention on the Elimination of all Forms of Racial Discrimination, organized by the Office of the High Commissioner for Human Rights in November 1997 (E/CN.4/1998/77/Add.2) noted with deep concern that the Internet was being used to an increasing extent to disseminate messages inciting racial hatred and discrimination throughout the world. Participants reached the conclusion that continued cooperation and the adoption of international juridical measures to prohibit racism on the Internet would facilitate preparations for the World Conference against Racism.

69. The views of the Cuban Government and the NGO Dominican Union of Journalists for Peace on the subject of the Internet are presented in paragraphs 89 and 90 below.

F. Prevention of racial discrimination: early warning and emergency procedures

70. According to the report of the Committee on the Elimination of Racial Discrimination on its fiftieth and fifty-first sessions (A/52/18), the Committee at its forty-second session (1993) noted the conclusion adopted by the fourth meeting (October 1992) of persons chairing the human rights treaty bodies that each treaty body should undertake an urgent examination of all possible measures that it might take, within its competence, both to prevent human rights violations from occurring and to monitor more closely emergency situations of all kinds arising within the jurisdiction of States parties; where procedural innovations are required for this purpose, they should be considered as soon as possible (A/47/628, para. 44).

71. After discussing that conclusion, the Committee adopted a working paper in which it noted that efforts to prevent serious violations of the International Convention on the Elimination of all Forms of Racial Discrimination should include early warning measures and urgent procedures: (a) early warning measures would be aimed at addressing existing problems so as to prevent them from escalating into conflicts and would also include confidence-building measures to identify and support structures to strengthen racial tolerance and solidify peace in order to prevent a relapse into conflict in situations where it has occurred. The decision to adopt an early warning measure would be based on a series of criteria to be decided upon such

as, for example, the lack of a legislative basis for punishing the perpetrators of acts of racial discrimination; (b) urgent procedures, on the other hand, would aim at responding to problems requiring immediate attention to prevent or limit the scale of serious human rights violations; criteria for initiating an urgent procedure could include the generalization or aggravation of racial discrimination (A/52/18, para. 16).

G. Affirmative action

72. In the conclusions of the report he submitted to the fifty-first session of the General Assembly (1996), the Special Rapporteur of the Commission on Human Rights on contemporary forms of racism, racial discrimination, xenophobia and related intolerance suggested that the General Assembly should explore the possibility of establishing a fund to assist ethnic or racial communities that are victims of racial discrimination. He also suggested that an appropriate affirmative action mechanism might be established for those ethnic communities (A/51/301, para. 58).

VII. FORMULATION OF RECOMMENDATIONS FOR ENSURING THAT THE UNITED NATIONS HAS THE FINANCIAL RESOURCES NECESSARY TO COMBAT RACISM AND XENOPHOBIA

73. In its resolution 1998/26, the Commission on Human Rights regretted the continued lack of interest, support and financial resources for the Third Decade to Combat Racism and its Programme of Action (para. 15). It also stated that the General Assembly should consider the possibility of financing the Programme of Action, including through the United Nations regular budget (para. 16). It further recommended that the activities of the Programme of Action should be focused towards the preparatory process for the World Conference (para. 59).

74. Yet if the United Nations is to be assured of the resources, financial and other, it requires to combat racism, racial discrimination, xenophobia and related intolerance, the World Conference should not only recommend financing the Programme of Action and provide the Office of the High Commission for Human Rights with the financial and human resources it needs to implement the activities it decides upon to combat racism, but above all indicate how such resources can be obtained. For that reason, the General Assembly should be requested to consider all possible means of financing the Programme of Action, including through the United Nations regular budget.

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Second part

Brief review of certain replies of Governments, United Nations bodies
and non-governmental organizations

Introductory note

75. On 30 September 1998, the secretariat sent a note verbale inviting Governments, specialized agencies and intergovernmental and non-governmental organizations to provide any views, information and comments they wished to

make on the objectives of the World Conference as formulated in General Assembly resolution 52/111. As of 30 January 1999, replies had been received from the Governments of Cuba, Finland, France, the Islamic Republic of Iran, Peru, Turkey and the United States of America. Substantive replies were also received from the following United Nations bodies: Department of Public Information (DPI), Department of Economic and Social Affairs and the Office of the United Nations High Commissioner for Refugees (UNHCR). Contributions were also received from the following non-governmental organizations: Anti-Racism Information Service, Caucasians United for Reparations and Emancipation, Dominican Union of Journalists for Peace, International Human Rights Association of American Minorities, International League for Human Rights, North-South XXI and Oxfam.

76. For the purpose of this report, a summary of the submissions received by the secretariat is presented according to the first six objectives of the World Conference as set out by the General Assembly in its resolution 52/111. No information was submitted in respect of the seventh objective (recommendations for ensuring financial resources). The replies can be consulted at OHCHR.

I. REVIEW OF PROGRESS MADE IN THE FIGHT AGAINST RACISM AND XENOPHOBIA AND REAPPRAISAL OF OBSTACLES TO FURTHER PROGRESS

77. The Government of Cuba expressed the hope that one of the main objectives of the Conference, in addition to assessing the activities carried out in recent years, would be to analyse obstacles impeding progress in this area and to formulate ways and means of addressing the resurgence of racist manifestations.

78. With respect to progress made in the fight against racism, racial discrimination and intolerance in Europe, the Government of Finland reported that the European Union has increased its efforts in the fight against racism by developing a global strategy to combat this phenomenon. During 1997, European Year against Racism, several activities were developed, including the establishment of a Monitoring Centre on Racism in Vienna. The Government of Finland also highlighted the long-standing work in the area of racism and minority protection carried out by the Council of Europe. Finland suggested that, in order to tackle the obstacles to further progress in the area of racism and racial discrimination, it was necessary to address the forms these manifestations take and the particular problems they pose in each region in order to begin to identify relevant remedies.

II. ENSURING RESPECT FOR EXISTING STANDARDS AND INSTRUMENTS TO COMBAT RACISM AND XENOPHOBIA

79. The Governments of Cuba and the Islamic Republic of Iran stressed that the World Conference provides a good occasion to encourage the universal ratification of the International Convention on the Elimination of All Forms of Racial Discrimination. Reference was also made to the need to implement the Convention as well as the declarations, resolutions and decisions adopted by the United Nations on the subject.

III. SENSITIZING PUBLIC OPINION TO RACISM AND XENOPHOBIA

80. Most of the Governments and organizations that replied reported on the activities they have undertaken to increase awareness among policy makers and members of civil society of issues pertaining to racism, racial discrimination and intolerance.

81. The Department of Public Information of the United Nations (DPI) reported on a wide range of activities against racism and racial discrimination organized within the framework of the International Decade for Human Rights Education (1995-2004), the International Decade of the World's Indigenous People (1995-2004), and the Third Decade to Combat Racism and Racial Discrimination (1993-2003). For example, the Department's focus in 1998 was on the commemoration of the fiftieth anniversary of the Universal Declaration of Human Rights, one of the earliest efforts of the United Nations to combat racism. The DPI press kit for the anniversary included a background article on contemporary forms of racism and the work of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance.

82. Awareness about racism and racial discrimination has also been raised by DPI in the context of annual observances and specific events. For example, on the occasion of the 1998 International Day for the Elimination of Racism, many activities were undertaken worldwide by the United Nations information centres and services. These initiatives included production of television public service announcements on racial discrimination, interviews, symposia, lectures, dissemination of brochures and press kits, and the translation and dissemination of the Secretary-General's message on the theme of the Day.

83. DPI has also undertaken media outreach campaigns and the preparation of special radio, TV and printed materials. The Department's weekly television news magazine, "UN in Action", which is broadcast in more than 100 countries and in five languages, has produced 12 programmes on issues relating to racism and intolerance, including indigenous people, among other programmes on topics of human rights and development. "World Chronicle", a weekly TV programme featuring United Nations officials interviewed by Headquarters-based journalists, also continues to address human rights and racism. United Nations Radio continues to cover racial discrimination, racism and related issues, including ethnic conflicts throughout the world, in its daily news bulletins, weekly current affairs magazines, and feature programmes. The 1998 edition of the UN Briefing Paper, entitled "Human Rights Today: A United Nations Priority", includes details of the Organization's activities against racism, racial discrimination, xenophobia and related intolerance. In the most recent edition of the Yearbook of the United Nations, an annual DPI publication, an entire section is dedicated to the fight against racism and racial discrimination, while another section reflects activities against intolerance. DPI has also used its CyberSchoolBus, an educational Internet site targeted at students and educators, to enhance its educational capabilities and to develop a dialogue with educators outside the United Nations system. The site offers a wealth of information, activities and teaching resources on the issue of racism and racial discrimination.

84. Among its other activities, DPI also holds information briefings for students and NGOs, both at the Secretariat and at outside locations, some of which have focused specifically on racism, discrimination and intolerance.

85. The communications strategy to be developed to promote and publicize the World Conference on Racism will be presented to the Joint United Nations Information Committee (JUNIC) to facilitate cooperation and coordination of public information efforts within the United Nations system. Details of the DPI strategy and multi-media activities may require identification of additional funding.

86. In its answer, the Government of the United States of America stressed that with a view to increasing the level of awareness about the scourges of racism and racial discrimination, xenophobia and related intolerance, President Clinton had launched a nationwide dialogue on race in 1997 built around a five-point strategy:

- (a) articulating a vision of racial reconciliation and a just, unified America;
- (b) helping educate the nation about racism;
- (c) promoting a constructive dialogue and working through the difficult and controversial issues that surround race;
- (d) recruiting and encouraging leadership at all levels to help bridge racial divides; and
- (e) finding, developing and implementing solutions in critical areas such as education, economic opportunity, housing, health care, crime and the administration of justice for individuals, communities, corporations, and government at all levels for all races.

87. The Office of the United Nations High Commissioner for Refugees (UNHCR) has undertaken a number of initiatives with a view to increasing awareness about racism and racial discrimination, xenophobia and related intolerance. These initiatives have included the publication and use of a training module for staff entitled "Human Rights and Refugee Protection" in which a specific chapter addresses racial discrimination between different groups of refugees and between refugees and citizens of the country of asylum, and protection against xenophobia and racist violence. In addition, the public information section of UNHCR has undertaken to raise public awareness of the plight of refugees, confront stereotypes and promote tolerance and understanding. More specifically, UNHCR has developed educational materials appropriate for children, including supplementary teaching guides that have been distributed in large quantities to schools in many countries.

88. With a view to raising awareness about the issue of racism and racial discrimination in Europe, UNHCR is running a European Union campaign promoting the integration of recognized refugees in Europe which involves print, radio and TV spots in all countries of the Union. The campaign's goal is to raise public sensitivity to the plight of refugees and promote advocacy against all forms of racism, xenophobia and ill-treatment of asylum seekers. To the same

purpose, the European Monitoring Centre on Racism and Xenophobia has published a brochure which has met with extraordinary interest from all sides. It is a pocket-sized booklet giving suggestions about what everybody can do in everyday life to combat racism and xenophobia and to achieve intercultural understanding. It has been published in English, French and German and it will be translated into the other official languages of the European Union. In this connection, the Monitoring Centre has suggested that a joint project should be organized with OHCHR to publish this document in all the languages of the world.

IV. FORMULATION OF RECOMMENDATIONS ON WAYS OF INCREASING
THE EFFECTIVENESS OF UNITED NATIONS PROGRAMMES TO
COMBAT RACISM AND XENOPHOBIA

89. A number of specific recommendations were made with regard to the abuse of the Internet. The Government of Cuba stated that the misuse of communication and information media such as the Internet to disseminate ideas based on racial superiority or hatred requires closer attention and concrete action by the international community. In this respect, the recommendations of the seminar on the use of the Internet organized as part of the Third Decade to Combat Racial Discrimination are a praiseworthy contribution (see also paragraph 68 above). Cuba suggested that consideration be given to the possibility of setting up an intergovernmental working group of the Commission on Human Rights to draft a code of ethics for Internet users and service providers and to decide on measures for prohibiting the dissemination of racist ideas via this medium.

90. The Dominican Union of Journalists for Peace suggested that the United Nations should propose a convention to regulate the use of the media and the Internet, exclusively with reference to the dissemination of racist ideas and racial hatred and to make the access by States to the international financial institutions conditional upon strict observance of that convention. Further suggestions include the holding of various regional symposia, seminars and consultations with a view to mobilizing the greatest possible number of persons involved in work to combat racism and racial discrimination.

91. The Government of the Islamic Republic of Iran also alluded to abuse of the Internet to disseminate racist ideas and suggested that the question of "Islamophobia" - the phenomenon of discrimination against and intolerance of Muslims - be given due consideration by both the Special Rapporteurs on racism, racial discrimination, xenophobia and related intolerance, and on religious intolerance.

92. The Department of Economic and Social Affairs of the United Nations considered that the question of religious intolerance, a phenomenon which is increasing, should be discussed by the Conference.

93. North-South XXI recommended that an international conference be held on the specific issue of migrant workers and that a survey of racist and discriminatory practices be undertaken, with a view to identifying the extent of indirect manifestations of racism. North-South XXI also proposed that a study of the direct root causes of racism should be proposed to non-governmental organizations by the competent United Nations bodies and

the resulting reports used to prepare a working paper and a publication under United Nations auspices. A comparative study of the legislation of the States of the South and North and of court decisions would make possible a concrete assessment of efforts by States to combat the various manifestations of racism. North-South XXI further suggested that the United Nations contact State bodies responsible for education with a view to reviving proposals for expanding the anti-racism component of school and university curricula. In this connection, a survey could be conducted on the contents of textbooks used in the different educational systems for the purpose of removing any expressions of racism. Lastly, North-South XXI suggested that an appeals body for the victims of discrimination be established within United Nations structures, with the participation of the competent non-governmental organizations, to ensure that racist acts are brought to the attention of the international community.

94. In the light of ethnic hatred, propaganda and incitement to ethnic killing in the Great Lakes region of Africa, Oxfam suggested that all Governments that prohibit and condemn racism, racial discrimination, xenophobia and related intolerance should reinvigorate their commitment to the relevant aspects of international human rights law and international humanitarian law. The capacity of the African human rights institutions and instruments should be strengthened, and the commitment from African heads of State and leaders to combating racism, racial discrimination, xenophobia and related intolerance should be sharpened. Oxfam suggested that the international community urge the OAU, African Governments and all other States Members of the United Nations to denounce any party suspected of violating the Geneva Conventions or the Genocide Convention, and to demonstrate their commitment to investigate any allegations or reports of ethnic persecution or ethnically motivated propaganda or killing.

V. REVIEW OF THE POLITICAL, HISTORICAL, ECONOMIC, SOCIAL, CULTURAL AND OTHER FACTORS LEADING TO RACISM AND XENOPHOBIA

95. Some Governments and organizations submitted information on the various manifestations of racism as well as the factors which lead to racism and racial discrimination, suggesting that these may warrant special attention at the World Conference.

96. The Government of Cuba mentioned that for a long time, the analysis of the subject of the elimination of racism and racial discrimination was inextricably linked to the fight against apartheid. The end of apartheid did not mean the disappearance of racial discrimination, racist practices and xenophobia around the world, particularly in the developed world, where the most alarming expression and the most insidious forms of racism are to be found. The institutionalization of exclusionist and xenophobic practices has assumed very serious proportions and political parties which advocate racial exclusion have been gaining ground in a number of countries. In addition to discrimination against racial and ethnic minorities, discrimination against and intolerance towards immigrants is on the rise. Immigrants are often the victims of verbal abuse and physical violence on the part of militants from

ultra-rightist parties and extremist and xenophobic organizations, as well as of growing institutional racism, discriminatory legislation and harsh police repression.

97. UNHCR mentioned that the root causes of refugee displacement are inextricably linked to conflict, persecution and the denial of human rights, factors which always involve some form of discrimination. People become refugees because they are persecuted on account of their racial or national background, their religious beliefs or political opinions, or their membership of a particular social group. In addition, refugees may become the victims of discriminatory treatment in the country where they seek, or where they have been granted, asylum. Discrimination has sometimes taken the form of denial of asylum to persons because of their nationality and differences in the treatment of asylum seekers based on racial, ethnic or religious grounds. Other factors which may lead to discrimination in host countries include xenophobia and prejudice among the local population, which in some countries has led to racially motivated attacks against refugees and asylum seekers.

98. Caucasians United for Reparations and Emancipation noted that manifestations of racism and racial discrimination against the African American population in the United States often stem from the legacies of plantation slavery. A large number of descendants of enslaved Africans in the United States and throughout the world are victims of a virulent, culturally ingrained racism, the origins of which are very old. It was suggested that in order to effectively address the root cause of racism and racial discrimination, the United Nations must undertake the task of studying and understanding the legacies of plantation slavery.

99. North-South XXI added that one of the factors leading to racial discrimination with regard to access to employment and housing, and treatment by the police, the judiciary and the school system was intolerance against "foreign-looking" individuals, particularly migrant workers.

VI. FORMULATION OF RECOMMENDATIONS FOR THE ADOPTION OF ADDITIONAL NATIONAL, REGIONAL AND INTERNATIONAL MEASURES TO COMBAT RACISM AND XENOPHOBIA

100. In their responses, some Governments and organizations highlighted some of the specific issues which could form the basis of recommendations for action-oriented measures, while others made very concrete proposals in this respect.

101. The Government of the United States of America was of the view that the World Conference can make a major contribution to the understanding of racial questions and pave the way for an international dialogue on the subject in coming decades; its approach should therefore be future-oriented and constructive.

102. The Peruvian Government, for its part, considered that the World Conference should formulate concrete recommendations making it possible to increase the effectiveness of existing machinery used to combat racial discrimination and to adopt additional measures at the national, regional and international levels to strengthen those already in place.

103. The Government of Turkey stated that the World Conference should address, in a comprehensive manner, all forms of racism, racial discrimination, xenophobia and related contemporary forms of intolerance. To this end, measures should be practical and action-oriented, and focus primarily on prevention, education, protection and the provision of effective remedies.

104. The Government of France suggested that measures to combat racism should focus on the issues pertaining to racism and the duty to remember racism and globalization, and racism and population movements. The French Government further suggested that emphasis be placed on the following: teaching of racial tolerance and inter-ethnic understanding; training of law enforcement personnel such as the police and judges; prevention an early warning procedures in connection with racism; increasing interaction between mechanisms for preventing and eliminating racism; and the role of the media and of the new means of communication such as the Internet.

105. The Government of the Islamic Republic of Iran recommended the organization of festivals and exhibitions with the active participation of different ethnic and linguistic groups, utilizing television and radio programmes and educational materials as a means to enhance national solidarity among the different groups in society and eliminate marginalization and discrimination.

106. As for concrete recommendations to combat racial discrimination at the international level, the Islamic Republic of Iran is of the view that the promotion of genuine dialogue, mutual understanding, a culture of tolerance, and enhanced cooperation and participation would contribute to the gradual realization of a "global civil society" in which the phenomena of racism, racial discrimination and xenophobia are doomed to complete eradication. In this connection, the Islamic Republic of Iran suggested that the international community proclaim the year 2001 as the year of "dialogue among civilizations". Such a commitment could strengthen respect for the human rights of all and promote the rights of persons belonging to national, ethnic, religious and linguistic minorities, in particular, key elements for peaceful coexistence, mutual understanding and tolerance among societies and the international community.

107. The Government of Finland is of the view that measures should take into account the gender perspective of racial discrimination as women belonging to minority groups often face the risk of being discriminated against on multiple grounds. It further recommended that any measures to combat racism and xenophobia should involve non-governmental organizations, as racism and racial discrimination mostly take place at the grass-roots level, at which NGOs are most active.

108. The United Nations Department for Economic and Social Affairs strongly recommends that representatives of all races, of all colours and all countries should participate not only in the Conference but also in the preparatory process, so as to demonstrate a global commitment to respect for diversity.

109. UNHCR suggested that appropriate strategies and measures be taken to combat discrimination and intolerance against refugees and asylum seekers.

110. Oxfam suggested that leaders publicly repudiate ethnic killing and the incitement to ethnic persecution as a tactic of war.

111. The Anti-Racism Information Service suggested that the following issues could provide input into recommendations: racial discrimination in the workplace; migration and related questions; neo-Nazism; Holocaust denial; the caste system; inclusion of anti-racist thought in education; negative consequences of international trade and globalization; the despoliation of nature and the overexploitation of natural resources; ethnocide, ethnic cleansing and violence against women in ethnic conflict.

112. The International League for Human Rights suggested that Anti-Semitism should be a subject of consideration and on the agenda of the World Conference.

GENERAL CONCLUSION

113. Despite the progress achieved, racism and racial discrimination have not disappeared and are assuming new forms. Efforts to combat these practices should therefore be continued and even intensified.

114. Since racism is not inborn but acquired from surroundings and rooted in ignorance, the emphasis should be on education in efforts to combat this scourge. States should concentrate first of all on education and awareness-arousing as means of prevention.

115. Moreover, universal and unconditional accession to the International Convention on the Elimination of All Forms of Racial Discrimination is of vital importance. States are also urged, in taking legislative action, to adopt laws to prevent and eradicate racial discrimination and to abrogate and modify any policy having the effect of inciting or perpetuating racial hatred.

116. Although many Governments are engrossed by important problems, such as national security, subsistence, development and internal conflicts, it is to be hoped that their participation in the World Conference and the adoption of effective and concrete measures will induce States to accord high priority to the prevention of racial discrimination, and thereby promote efforts to combat racism.

Annex

Initial list of publications on racism and xenophobia

In its resolution 1998/26, the Commission on Human Rights invited the High Commissioner for Human Rights to submit to the Commission at its fifty-fifth session and to the Preparatory Committee at its first session a compendium of references to publications and other works by experts and United Nations, regional and other bodies on the fight against racism, racial discrimination, xenophobia and related intolerance (para. 57).

An initial and not exhaustive list of publications and documents prepared by United Nations bodies and organs, as well as intergovernmental and regional organizations, is presented below.

Summary

- I. United Nations bodies
 - A. Background publications
 - B. Human rights fact sheet series
 - C. Reports of the World Conference to Combat Racism and Racial Discrimination
 - D. Seminars
 - E. Reports and studies
 - F. Committee on the Elimination of Racial Discrimination
 - G. Second Decade to Combat Racism and Racial Discrimination (1983-1993)
 - H. Third Decade to Combat Racism and Racial Discrimination (1993-2003)
- II. United Nations High Commissioner for Refugees
 - A. Basic documents
 - B. Specific publications
- III. International Labour Organization
 - A. Basic documents
 - B. General publications
 - C. Specific publications

- IV. United Nations Educational, Scientific and Cultural Organization
 - A. Basic documents
 - B. General publications
 - C. Specific publications
- V. International Organization for Migration
- VI. Council of Europe
- VII. European Union
- VIII. Organization for Security and Cooperation in Europe
- IX. Organization of African Unity
- X. Organization of American States

I. UNITED NATIONS BODIES

A. Background publications

- 1987: *Human Rights: Status of International Instruments* (ST/HR/5; Sales No. E.87.XIV.2).

[The booklet entitled *International Instruments: Chart of Ratifications* updates the 1987 publication. The Chart at 30 December 1997 is referenced as ST/HR/4/Rev.16].

- 1993: *Human Rights Bibliography. United Nations documents and publications - 1980-1990*, 5 vols. (Sales No. GV.E.92.0.16).

United Nations Reference Guide in the Field of Human Rights (ST/HR/6; Sales No. E.93.XIV.4).

- 1994: *Human Rights: A Compilation of International Instruments*, vol. I (parts I and II). *Universal Instruments* (ST/HR/1/Rev.5 (Vol. I); Sales No. E.94.XIV.1).

United Nations Action in the Field of Human Rights (ST/HR/2/Rev.4; Sales No. E.94.XIV.11).

- 1996: *Human Rights on CD-ROM: Bibliographical and International Instruments* (Sales No. GV.E.97.0.7).

The CD version of the printed human rights bibliography (1980-1995) contains over 14,000 references and also includes the full text of 95 international instruments. Searches can be conducted in English, French and Spanish.

- 1997: *Human Rights: A Compilation of International Instruments*, vol. II, *Regional Instruments* (ST/HR/1/Rev.5 (Vol. II); Sales No. E.97.XIV.1).

B. Human Rights Fact Sheet Series

- 1989: *Programme of action for the Second Decade to Combat Racism and Racial Discrimination* (Fact Sheet No. 5).

- 1991: *The Committee on the Elimination of Racial Discrimination* (Fact Sheet No. 12).

- 1992: *The rights of migrant workers* (Fact Sheet No. 24).

- 1994: *Human rights and refugees* (Fact Sheet No. 20).

Discrimination against women: The Convention and the Committee (Fact Sheet No. 22).

- 1996: *The rights of the child* (Fact Sheet No. 10 (Rev.1)).

- 1997: The rights of indigenous peoples (Fact Sheet No. 9 (Rev.1)).
- 1998: Minority rights (Fact Sheet No. 18 (Rev.1)).

C. Reports of the World Conference to Combat Racism and Racial Discrimination

- 1978: Report of the World Conference to Combat Racism and Racial Discrimination, Geneva, August 1978 (A/CONF/92/40; Sales No. E.79.XIV.2).
- 1983: Report of the second World Conference to Combat Racism and Racial Discrimination (A/CONF/119/26; Sales No. E.83.XIV.4).

D. Seminars

- 1971: Measures to be taken on the national level for the implementation of United Nations instruments aimed at combating and eliminating racial discrimination and for the promotion of harmonious race relations: Symposium on the evils of racial discrimination, Yaoundé (Cameroon) (ST/TAO/HR/42).

The participation of women in economic life (with reference to the implementation of article 10 of the Declaration on the Elimination of Discrimination against Women and of General Assembly resolution 2716 XXV), Libreville (Gabon) (ST/TAO/HR/43).

The dangers of a recrudescence of intolerance in all its forms and the search for ways of preventing and combating it, Nice (France), (ST/TAO/HR/44).

- 1974: The promotion and protection of human rights of national, ethnic and other minorities, Ohrid (Yugoslavia) (ST/TAO/HR/49).
- 1975: The human rights of migrant workers, Tunis (Tunisia) (ST/TAO/HR/50).
- 1979: Seminar on recourse procedures available to victims of racial discrimination and activities to be undertaken at the regional level, Geneva (Switzerland) (ST/HR/SER.A/3).
- 1980: Seminar on political, economic, cultural and other factors underlying situations leading to racism including a survey of the increase or decline of racism and racial discrimination, Nairobi (Kenya) (ST/HR/SER.A/7).
- 1981: Seminar on recourse procedures and other forms of protection available to victims of racial discrimination and activities to be undertaken at national and regional levels, Managua (Nicaragua) (ST/HR/SER.A/11).
- 1982: Seminar on recourse procedures and other forms of protection available to victims of racial discrimination and activities to be undertaken at the national and regional levels, with special reference to Asia and the Pacific, Bangkok (Thailand) (ST/HR/SER.A/13).

- 1986: Seminar on international assistance and support to peoples and movements struggling against colonialism, racism, racial discrimination and apartheid, Yaoundé (Cameroon) (ST/HR/SER.A/19).
- 1989: The effects of racism and racial discrimination on the social and economic relations between indigenous peoples and States, Geneva (Switzerland) (HR/PUB/89/5).
- 1991: Political, historical, economic, social and cultural factors contributing to racism, racial discrimination and apartheid, Geneva (Switzerland) (HR/PUB/91/3).
- 1996: Report of the United Nations seminar to assess the implementation of the International Convention on the Elimination of All Forms of Racial Discrimination with particular reference to articles 4 and 6 (E/CN.4/1997/68/Add.1).
- 1997: Seminar on immigration, racism and racial discrimination: report of the Secretary-General (E/CN.4/1998/77/Add.1).

Report of the expert seminar on the role of the Internet in the light of the provisions of the International Convention on the Elimination of All Forms of Racial Discrimination (E/CN.4/1998/77/Add.2).

E. Reports and Studies

- 1976: Hernán Santa Cruz, Study on racial discrimination in the political, economic and cultural spheres (E/CN.4/Sub.2/370/Rev.1; Sales No. E.76.XIV.2).
- 1979: Francesco Capotorti, Study on the rights of persons belonging to ethnic, religious and linguistic minorities (E/CN.4/Sub.2/384/Rev.1; Sales No. E.78.XIV.1).
- 1987: José R. Martínez Cobo, Study of the problem of discrimination against indigenous populations: Conclusions, proposals and recommendations (E/CN.4/Sub.2/1986/7/Add.4; Sales No. E.86.XIV.3).
- 1988: Asbjørn Eide, Study on the achievements made and obstacles encountered during the First Decade to Combat Racism and Racial Discrimination - Final progress report with suggestions for further collection of information (E/CN.4/Sub.2/1987/6).
- 1989: Elizabeth Odio Benito, Elimination of all forms of intolerance and discrimination based on religion or belief (Human Rights Study Series No. 2; Sales No. E.89.XIV.3).
- 1991: Francesco Capotorti, Study on the rights of persons belonging to ethnic, religious and linguistic minorities (Human Rights Study Series No. 5; Sales No. E.91.XIV.2).
- 1992: Leandro Despouy, Human rights and disabled persons (Human Rights Study Series No. 6; Sales No. E.92.XIV.4).

- 1997: Erica-Irene Daes, *Protection of the heritage of indigenous peoples* (Human Rights Study Series No. 10; Sales No. E.97.XIV.3).

F. Committee on the Elimination of Racial Discrimination

Two studies initially prepared for the Second World Conference to Combat Racism and Racial Discrimination:

- 1985: *Teaching, education, culture and information as means of eliminating racial discrimination. Article 7 of the Convention on the Elimination of Racial Discrimination* (CERD/3; Sales No. E.85.XIV.3).
- 1986: *Positive measures designed to eradicate all incitement to, or acts of, racial discrimination. Article 4 of the Convention on the Elimination of Racial Discrimination* (CERD/2; Sales No. E.85.XIV.2).

G. Second Decade to Combat Racism and Racial Discrimination (1983-1993)

- 1991: *Second Decade to combat racism and racial discrimination: Global compilation of national legislation against racial discrimination*, United Nations, New York (HR/PUB/90/8).

H. Third Decade to Combat Racism and Racial Discrimination (1993-2003)

- 1996: *Model national legislation for the guidance of governments in the enactment of further legislation against racial discrimination* (HR/PUB/96/2).

II. UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES

A. Basic documents

- 1995: *Collection of international instruments and other legal texts concerning refugees and displaced persons* (2 volumes; not sold separately) (ISBN 92-1-100713-5).
- 1996: *Conclusions on the international protection of refugees adopted by the Executive Committee of the UNHCR Programmes* (published annually) (HCR/IP/2/ENG/Rev.1998).

United Nations resolutions and decisions relating to the Office of the United Nations High Commissioner for Refugees (annual updates).

B. Specific publications

- 1995: *Detention of asylum-seekers in Europe* (European Series, Vol. 1, No. 4) (ISBN 92-1-100707-0).
- *Sexual violence against refugees: guidelines on prevention and response.*

III. INTERNATIONAL LABOUR ORGANIZATION

A. Basic documents

International Labour Standards, Fourth (revised) edition, 1998
(ISBN 92-2-110330-7).

International Labour Conventions and Recommendations, 1919-1995, 1996,
set of 3 volumes (ISBN 92-2-109192-9).

ILOLEX on CD-ROM. A database of international labour standards,
1997 edition (Windows version: ISBN 92-2-010604-3; DOS version:
ISBN 92-2-010608-6). A full-text trilingual (English/French/Spanish)
on international labour standards.

B. General publications

1. Studies prepared by a Committee of Experts on the Application of Conventions and Recommendations

1998: *Vocational rehabilitation and employment of disabled persons.*

1999: *Migrant workers.*

2. Report of the Committee on Legal Issues and International Labour Standards

[Deals with matters relating to the protection of human rights and more
specifically the elimination of discrimination based on sex and race.]

3. Series

Migration population.

International migration papers.

Labour management relations.

[These three series contain articles on racial discrimination in the
labour market against migrant workers and ethnic minorities.]

4. Seminars on immigration, racism and racial discrimination

1997: Roger Zegers de Beijl, *Combating discrimination against migrant
workers: international standards, national legislation and voluntary
measures. The need for a multi-pronged strategy* (Sa Geneva: SbILO,
Sc 1997).

1998: *La lutte contre la discrimination à l'encontre des travailleurs
migrants et des minorités ethniques dans le monde du travail*
(Sa Geneva: SbBIT, Sc 1998).

C. Specific publications1. Child labour

- 1988: A. Bequele and J. Boyden, *Combating child labour* (ISBN 92-2-106388-7).
- 1995: A. Bequele and W.E. Myers, *First things first in child labour: eliminating work detrimental to children* (ISBN 92-2-109197-X).
- 1998: *Child labour: targeting the intolerable*, International Labour Conference (86th session) (ISBN 92-2-110328-5).

2. Women workers

- 1995: *Women workers: an annotated bibliography (1983-1994)*, International Labour Bibliography, No. 14 (ISBN 92-2-109201-1).
- 1997: S. Epstein, *We can make it: stories of disabled women in developing countries* (ISBN 92-2-110327-7).

IV. UNITED NATIONS EDUCATIONAL, SCIENTIFIC AND CULTURAL ORGANIZATION

A. Basic documents

- UNESCO's standard-setting instruments (regular publication).
Supplement No. 3 (ISBN 92-3-102942-8).
- 1996: UNESCO and human rights.

[Documents of selected meetings related to human rights organized or co-organized by UNESCO (SHS.96/WS/8).]

B. General publications

- Annual report by the Director General on the application of the resolution concerning the implementation of the Declaration on Race and Racial Prejudice.
- Annual report by the Director General on implementation of resolution concerning UNESCO's contribution to peace and its task with respect to the promotion of human rights and the elimination of colonialism and racism.

C. Specific publications

- 1985: Richard Yves Quetel, *Bibliographie annotée de publications sur les origines et la nature des inégalités en matière d'éducation* (ED 86/WS/71; no. de catalogue: 70550).
- 1986: Michael Banton, *The historical context of racial classification*, UNESCO yearbook on peace and conflict studies (R 172.4.001.5 UNE; catalogue No. 83702).

- 1988: Harold Wolpe, *Race, class and the apartheid state* (323.1 (68) RAC; catalogue No. 78691).
- 1991: Suzanne Mollo-Bouvier and Yvonne Pozo-Medina, *La discrimination et les droits de l'homme dans les matériels didactiques*, Educational Studies and Documents, New Series (vol. 57, catalogue No. 88737).
- 1992: Robert Coulter, *Les indiens sur la scène internationale: Les premiers contacts avec l'ONU (1974-1983)*, Série Destins croisés (008(7/8)DES; no. de catalogue: 96028).
- 1995: Michel Conche, *La tolérance française et sa signification universelle*, Série: Tolérance j'écris ton nom (301.162.3 (04) TOL; no. de catalogue: 103922).
- 1998: Katérina Stenou, *Images de l'autre: la différence, du mythe au préjugé*, Paris, UNESCO/Editions du Seuil (no. de catalogue: 110887).
- 1986: Albert Memmi, "Racism today 'us' and 'them'", UNESCO Courrier, XXXIX, 5/6.
- 1992: Sepamla Sipho, "Racial discrimination in cultural life", UNESCO Courrier, XLV, 2.
- 1993: Michel Wieviorka, "The ruses of racism", UNESCO Courrier, XLVI, 2.
- 1996: Michel Wieviorka, "The seeds of hate", UNESCO Courrier, 49, 3.
- Etienne Balibar, "Racism and Anti-racism", loc. cit.
- Albert Jacquard, "An unscientific notion", loc. cit.
- "Race and racial prejudice", loc. cit.
- "The roots of racism", loc. cit.

V. INTERNATIONAL ORGANIZATION FOR MIGRATION

--- Overview of international migration.

[Programmes that Governments and cooperating organizations develop to regulate the migration process and support migrants and the communities in which they live (<http://www.iom.ch>).]

- 1995: *Trafficking and prostitution: the growing exploitation of migrant women* (ISBN 92-9068-048-2 (c)).
- 1996: "Organized crime moves into migrant trafficking", *Trafficking in migrants*, No. 11, June 1996.

"Combating migrant trafficking through legislation", *Trafficking in migrants*, No. 12, September 1996.

[A quarterly compilation of information from the media, Governments, intergovernmental and non-governmental organizations.]

1997: *CIS Migration report 1996*.

[Focusing on the Commonwealth of Independent States and neighbouring States (<http://www.iom.ch>).]

--- *International Migration*.

[A quarterly publication covering theoretical and applied aspects of international migration.]

VI. COUNCIL OF EUROPE

A. Official publications

1991: *Community and ethnic relations in Europe. Final report of the Community Relations Project*, Strasbourg, Human Rights Information Centre.

1992: Antonio Perotti, *Action to combat intolerance and xenophobia in the activities of the Council of Europe's Council for cultural cooperation 1969-1989*, Strasbourg, Human Rights Information Centre.

1994: Pieter Batelaan, *Education and tolerance in multicultural groups*, Strasbourg, Human Rights Information Centre.

1995: *The school in the fight against intolerance and xenophobia. Donaneshingen Seminar No. 68*, Strasbourg, Human Rights Information Centre.

Ceasar Birzea, *Human rights and minorities in the new European democracies: educational and cultural aspects*, Report of the Lohusalu (Estonia) Workshop (23-28 October 1994) (ISBN 92-871-2975-4).

Tackling racism and discrimination: practical action at the local level, Directorate of Social and Economic Affairs.

B. Documents of the European Commission against Racism and Intolerance (ECRI)

These are published under the auspices of the Council of Europe and are available in the Human Rights Information Centre at Strasbourg.

ECRI's guiding principles and future role.

Legal measures to combat racism and intolerance in the member States of the Council of Europe.

Combating racism, xenophobia, anti-Semitism and intolerance (ECRI general policy recommendation No. 1).

Specialized bodies to combat racism, xenophobia, anti-Semitism and intolerance at national level (ECRI general policy recommendation No. 2).

C. Miscellaneous

Current activities of the Council of Europe in the field of combating racism and intolerance.

Recommendations adopted by the Parliamentary Assembly of the Council of Europe in the field of combating racism and intolerance.

Recommendations adopted by the Committee of Ministers of the Council of Europe in the field of combating racism and intolerance.

VII. EUROPEAN UNION

1986: Declaration of the European Parliament on Racism and Xenophobia, 25 June 1986.

1992: Petros N. Stangos, "La lutte de la Communauté contre le racisme et la xénophobie", *Revue de l'Union Européenne*, No. 354, January 1992.

1997: Council regulation (EC) No. 1035/97 of 2 June 1997 establishing a European Monitoring Centre on Racism and Xenophobia.

VIII. ORGANIZATION FOR SECURITY AND COOPERATION IN EUROPE

1991: "Report on an expert meeting on national minorities (1-19 July 1991)" in Dominic McGoldrick (ed.), *Documents on the human dimension of the OSCE*, Warsaw, OSCE, 1995, pp. 63-69.

1993: U. Gibson and J. Niessen, *The OSCE and the protection of the rights of migrants, refugees and minorities*, Churches Commission for migrants in Europe, Briefing paper No. 11.

1994: F. Benoit-Rohmer and H. Hardeman, *The minority question in Europe: Towards the creation of a coherent European regime*, (CEPS Paper No. 55), Brussels, Centre for European Policy Studies.

1995: A. Philips and A. Rosas, *The OSCE and the issue of national minorities*, Abo Akademi University Institute for Human Rights and Minority Rights Group International.

--- Annual reports, Office of Democratic Institutions and Human Rights (ODIHR), Warsaw.

Reports of the Human Dimension Seminars organized by the ODIHR:

- Tolerance (16-20 November 1992).

- Migration, including refugees and displaced persons (20-23 April 1993).
- Case studies on national minorities issues (24-28 May 1993).
- Migrant workers (21-25 March 1994).

1997: Bibliography on the OSCE High Commissioner on national minorities (Documents, speeches and related publications), 3rd edition, Foundation on Inter-Ethnic Relations, The Hague.

IX. ORGANIZATION OF AFRICAN UNITY

1989: Medard R. Rwelamira, "Two decades of the 1969 OAU convention governing the specific aspects of the refugee problem in Africa", *International Journal of Refugee Law*, vol. 1, pp. 557-561.

1992: Gino J. Naldi, Documents of the OAU, London, New York: Mansell.

[This publication contains several important human rights documents including the 1969 OAU Convention Governing the Specific Aspects of Refugee Problems in Africa; the 1981 African Charter on Human and Peoples' Rights; the 1988 rules of procedure of the African Commission on Human and Peoples' Rights, and the 1990 African Charter on the Rights and Welfare of the Child.]

1993: Claude E. Welch Jr., "Human rights and African women: a comparison of protection under two major treaties", *Human Rights Quarterly*, vol. 15, pp. 549-574.

X. ORGANIZATION OF AMERICAN STATES

1992: Basic documents pertaining to human rights in the Inter-American system (Updated to July 1992), Washington, D.C., General Secretariat of the OAS (OEA/ser.L/V/II/82, doc. 6, rev.1; 1.VII.92).

1993: *Inter-American Yearbook on Human Rights*.

[This volume contains all the documents and information concerning the activities of the OAS in the field of promotion and protection of human rights.]

--- Annual reports of the Inter-American Commission on Human Rights.
